

- 1 shall occupy no more than forty percent (40%) of the total gross area available for
 2 lease;
- 3 (8) "Final approval" means the action taken by the authority authorizing the eligible
 4 company to receive inducements under KRS 139.536 and KRS 148.851 to 148.860;
- 5 (9) "Inducements" means the Kentucky sales tax refund as prescribed in KRS 139.536;
- 6 (10) "Preliminary approval" means the action taken by the authority conditioning final
 7 approval by the authority upon satisfaction by the eligible company of the
 8 requirements of KRS 139.536 and KRS 148.851 to 148.860;
- 9 (11) "State agency" means any state administrative body, agency, department, or division
 10 as defined in KRS 42.005, or any board, commission, institution, or division
 11 exercising any function of the state that is not an independent municipal corporation
 12 or political subdivision;
- 13 (12) "Theme restaurant destination attraction" means a restaurant facility that:
- 14 (a) Has construction, equipment, and furnishing costs in excess of five million
 15 dollars (\$5,000,000);
- 16 (b) Has an annual average of not less than fifty percent (50%) of guests who are
 17 not residents of the Commonwealth;
- 18 (c) Is in operation and open to the public no less than three hundred (300) days
 19 per year and for no less than eight (8) hours per day;
- 20 (d) Has food and nonalcoholic drink options that constitute a minimum of fifty
 21 percent (50%) of total gross sales receipts; and
- 22 (e) 1. Has seating capacity of four hundred fifty (450) guests and offers live
 23 music or live musical and theatrical entertainment during the peak
 24 business hours that the facility is in operation and open to the public;
- 25 2. Within three (3) years of the completion date pursuant to KRS
 26 148.859(1)(b), holds a top two (2) tier rating by a nationally accredited
 27 service; or

1 3. Offers a unique dining experience that is not available in the
2 Commonwealth within a one hundred (100) mile radius of the attraction;

3 (13) "Tourism attraction" means a cultural or historical site, a recreation or entertainment
4 facility, an area of natural phenomenon or scenic beauty, a Kentucky crafts and
5 products center, a theme restaurant destination attraction, or an entertainment
6 destination center.

7 (a) A tourism attraction may include lodging facilities if:

8 1. The facilities constitute a portion of a tourism attraction project and
9 represent less than fifty percent (50%) of the total approved cost of the
10 tourism attraction project, or the facilities are to be located on
11 recreational property owned or leased by the Commonwealth or federal
12 government and the facilities have received prior approval from the
13 appropriate state or federal agency;

14 2. The facilities involve the restoration or rehabilitation of a structure that
15 is listed individually in the National Register of Historic Places or are
16 located in a National Register Historic District and certified by the
17 Kentucky Heritage Council as contributing to the historic significance of
18 the district, and the rehabilitation or restoration project has been
19 approved in advance by the Kentucky Heritage Council;

20 3. The facilities involve the reconstruction, restoration, rehabilitation, or
21 upgrade of a full-service lodging facility having not less than five
22 hundred (500) guest rooms, with reconstruction, restoration,
23 rehabilitation, or upgrade costs exceeding ten million dollars
24 (\$10,000,000);

25 4. The facilities involve the construction, restoration, rehabilitation, or
26 upgrade of a full-service lodging facility which is or will be an integral
27 part of a major convention or sports facility, with construction,

1 restoration, rehabilitation, or upgrade costs exceeding six million dollars
 2 (\$6,000,000); or

3 5. The facilities involve the construction, restoration, rehabilitation, or
 4 upgrade of a lodging facility which is or will be located:

5 a. In the Commonwealth within a fifty (50) mile radius of a property
 6 listed on the National Register of Historic Places with a current
 7 function of recreation and culture; and

8 b. Within any of the one hundred (100) least populated counties in
 9 the Commonwealth, in terms of population density, according to
 10 the most recent census;

11 (b) A tourism attraction shall not include the following:

12 1. Facilities that are primarily devoted to the retail sale of goods, other than
 13 an entertainment destination center, a theme restaurant destination
 14 attraction, a Kentucky crafts and products center, or a tourism attraction
 15 where the sale of goods is a secondary and subordinate component of the
 16 attraction; and

17 2. Recreational facilities that do not serve as a likely destination where
 18 individuals who are not residents of the Commonwealth would remain
 19 overnight in commercial lodging at or near the tourism attraction
 20 project; and

21 (14) "Tourism attraction project" or "project" means the acquisition, including the
 22 acquisition of real estate by a leasehold interest with a minimum term of ten (10)
 23 years, construction, and equipping of a tourism attraction; the construction, and
 24 installation of improvements to facilities necessary or desirable for the acquisition,
 25 construction, and installation of a tourism attraction, including but not limited to
 26 surveys; installation of utilities, which may include water, sewer, sewage treatment,
 27 gas, electricity, communications, and similar facilities; and off-site construction of

1 utility extensions to the boundaries of the real estate on which the facilities are
 2 located, all of which are to be used to improve the economic situation of the
 3 approved company in a manner that shall allow the approved company to attract
 4 persons.

5 Section 207. KRS 154.01-010 is amended to read as follows:

6 As used in this chapter, unless the context indicates otherwise:

- 7 (1) "Agribusiness" or "agricultural business entity" means any person, partnership,
 8 limited partnership,~~[- registered limited liability partnership,]~~ corporation, limited
 9 liability company, or any other entity engaged in a business that processes raw
 10 agricultural products, including timber, or provides value-added functions with
 11 regard to raw agricultural products;
- 12 (2) "Approved business network" or "approved flexible industrial network" means a
 13 business network comprising three (3) or more business firms or industries which
 14 have been identified as key industries and targeted by the state's strategic economic
 15 development plan for special consideration and assistance by the agencies of the
 16 Commonwealth;
- 17 (3) "Authority" means the Kentucky Economic Development Finance Authority,
 18 consisting of a committee as set forth in KRS 154.20-010;
- 19 (4) "Board" means the Kentucky Economic Development Partnership, an
 20 administrative body within the meaning of KRS 12.010, and the governing body of
 21 the Cabinet for Economic Development, as created and established in KRS 154.10-
 22 010;
- 23 (5) "Business network" or "flexible industrial network" means a formalized,
 24 collaborative mechanism organized by and operating among three (3) or more
 25 industrial entities, business enterprises, or private sector firms for the purposes of,
 26 but not limited to: pooling expertise; improving responses to changing technology
 27 or markets; lowering the risks to individual entities of accelerated modernization;

- 1 encouraging new technology investments, new market development, and employee
 2 skills improvement; and developing a system of collective intelligence among
 3 participating entities;
- 4 (6) "Cabinet" means the Cabinet for Economic Development as established under KRS
 5 12.250, and governed by the Kentucky Economic Development Partnership;
- 6 (7) "Commonwealth" means the Commonwealth of Kentucky;
- 7 (8) "Cost of a project" means the cost of the acquisition, construction, reconstruction,
 8 conversion, or leasing of any industrial, commercial, health care, agricultural, or
 9 forestry enterprise, or any part thereof, to carry out the purposes and objectives of
 10 this chapter, including, but not limited to, acquisition of land or interest in land,
 11 buildings, structures, or other planned or existing planned improvements to land,
 12 including leasehold improvements, machinery, equipment, or furnishings; working
 13 capital; and administrative costs including, but not limited to, engineering,
 14 architectural, legal, and accounting fees which are necessary for the project;
- 15 (9) "Local and regional economic development interest" means any local business or
 16 economic development interest, including, but not limited to, chambers of
 17 commerce, business development associations, industrial development
 18 organizations, area development districts, and public economic development
 19 entities;
- 20 (10) "Industrial entity" means any corporation, limited liability company, partnership,
 21 **limited partnership,** ~~registered limited liability partnership,~~ person, or any other
 22 legal entity, domestic or foreign, which will itself or through its subsidiaries or
 23 affiliates, engage in an industrial improvement project in the Commonwealth;
- 24 (11) "Industrial improvement project" means and includes the acquisition, construction,
 25 or implementation of new manufacturing, processing, or assembling facilities,
 26 equipment, methods or processes, or improvements to or repair of existing
 27 manufacturing, processing, or assembling facilities, equipment, methods, or

1 processes, as well as improvements to the real estate upon which the facilities are
2 located, and includes any capital improvement to any existing facility, including any
3 restructuring, retooling, rebuilding, reequipping, or any other form of upgrading
4 such existing facility and equipment and any other improvements to such real estate,
5 existing facility, or manufacturing, processing, or assembling equipment, method,
6 or process;

7 (12) "Key industry" means an industry or business within an industrial sector which has
8 been identified in and targeted by the state's economic development strategic plan as
9 having major importance to the sustained economic growth of the Commonwealth
10 and in which member firms sell goods or services into markets for which national or
11 international competition exists, including, but not limited to, secondary forest
12 products manufacturing, agribusiness, and high technology and biotechnology
13 manufacturing and services;

14 (13) "Military" and "defense" mean all military and defense installations, entities,
15 activities, and personnel located, operating, or living in Kentucky;

16 (14) "Municipality" means a county, city, village, township, development organization,
17 an institution of higher education, a community or junior college, a subdivision or
18 instrumentality of any of the foregoing, or any entity created by two (2) or more
19 municipalities pursuant to the Interlocal Cooperation Act, KRS 65.210 to 65.300;

20 (15) "Network broker" means a person who is trained to assist private sector firms to
21 form business networks and make other similar efforts to provide for joint
22 manufacturing, marketing, technology development, information dissemination, and
23 other activities;

24 (16) "Non-appropriation-supported bond" means any long-term financial borrowing
25 instrument for which regular debt service does not originate from an appropriation
26 of the General Assembly;

27 (17) "Non-appropriation-supported note" means any short-term financial borrowing

1 instrument for which loan payments do not originate from an appropriation of the
2 General Assembly;

3 (18) "Person" means an individual, partnership,~~[registered limited liability partnership,]~~
4 joint venture, military facility operated by a department or agency of the United
5 States, profit or nonprofit corporation including a public or private college or
6 university, limited liability company, or other entity or association of persons
7 organized for agricultural, commercial, health care, or industrial purposes; or a
8 public utility or local industrial development corporation;

9 (19) "Private sector" means any source other than the authority, a state or federal entity,
10 or an agency thereof;

11 (20) "Project" means an endeavor approved by the cabinet or authority and related to
12 industrial, manufacturing, mining, mining reclamation for economic development,
13 commercial, health care, or agricultural enterprise. Project shall include, but is not
14 limited to, agribusiness, agricultural or forestry production, harvesting, storage, or
15 processing facilities or equipment; equipment or facilities designed to produce
16 energy from renewable resources; research parks; office facilities; engineering
17 facilities; research and development laboratories; warehousing facilities; parts
18 distribution facilities; depots or storage facilities; port facilities; railroad facilities,
19 including trackage, right-of-way, and appurtenances; airports and airport
20 renovation; water and air pollution control equipment or waste disposal facilities;
21 tourist facilities; theme or recreational parks; health care and health related
22 facilities; farms, ranches, forests, and other agricultural or forestry commodity
23 producers; agricultural harvesting, storage, transportation, or processing facilities or
24 equipment; grain elevators; shipping heads and livestock pens; livestock; wharves
25 and dock facilities; water, electricity, hydroelectric, coal, petroleum, or natural gas
26 provision facilities; dams and irrigation facilities; sewage, liquid, and solid waste
27 collection, disposal treatment, and drainage services and facilities. Except for

1 airport-related facilities, project shall not include that portion of an endeavor
 2 devoted to the sale of goods at retail or that portion of an endeavor devoted to
 3 housing which does not consist of the manufacture of housing;

4 (21) "Reclamation development fund" means the fund administered by the Kentucky
 5 Economic Development Finance Authority to foster economic development on
 6 surface mining land;

7 (22) "Reclamation development project" means only that reconditioning of land affected
 8 by surface mining, which will directly promote and benefit an economic
 9 undertaking which constitutes a project under subsection (20) of this section;

10 (23) "Reclamation development plan" means a plan submitted to the Environmental and
 11 Public Protection Cabinet to show compliance with reclamation standards, and
 12 submitted to the Kentucky Economic Development Finance Authority to seek
 13 moneys from the reclamation development fund for a reclamation development
 14 project;

15 (24) "Secretary" means the chief executive officer and secretary of the Cabinet for
 16 Economic Development;

17 (25) "State" means the Commonwealth of Kentucky; and

18 (26) "Tax revenues" means any revenues received by the Commonwealth directly or
 19 indirectly as a result of the industrial improvement project, including state corporate
 20 income taxes, state income taxes paid by employees who work in the project, state
 21 property taxes, state corporation license taxes, or state sales and use taxes.

22 Section 208. KRS 154.10-030 is amended to read as follows:

23 The board shall have all the powers and authority, not explicitly prohibited by statute,
 24 necessary or convenient to carry out and effectuate the functions, duties, and
 25 responsibilities of the board and the cabinet, including, but not limited to, the following:

26 (1) Serving as the governing body of the Cabinet for Economic Development;

27 (2) Suing and being sued;

- 1 (3) Adopting, using, and altering at will a corporate seal;
- 2 (4) Approving economic development programs and projects;
- 3 (5) Discharging the secretary of the Cabinet for Economic Development;
- 4 (6) Approving the state's strategic economic development plan and subsequent
5 implementation plans;
- 6 (7) Providing for and directing the state's economic development strategic planning
7 process;
- 8 (8) Evaluating the performance and effectiveness of the Commonwealth's economic
9 development systems, including:
 - 10 (a) The establishment of benchmarks; and
 - 11 (b) Program review;
- 12 (9) Reporting to the Governor, the General Assembly, and the people of the
13 Commonwealth regarding its functions, duties, and responsibilities, including, but
14 not limited to:
 - 15 (a) The Commonwealth's strategic economic development plan;
 - 16 (b) Program initiatives and implementation plans;
 - 17 (c) Systems evaluations;
 - 18 (d) Benchmarks;
 - 19 (e) Program evaluation; and
 - 20 (f) Activities of the cabinet;
- 21 (10) Soliciting, borrowing, accepting, receiving, investing, and expending funds from
22 any public or private source;
- 23 (11) Making grants, loans, and investments; guaranteeing and insuring loans, leases,
24 bonds, notes, or other indebtedness, whether public or private; issuing letters of
25 credit; and making loans to financial institutions to facilitate financing of all or part
26 of an export-related transaction including, but not limited to, pre-export working
27 capital financing and post-export receivable financing;

- 1 (12) Constructing, acquiring by gift, purchase, installment purchase, or lease, and
 2 reconstructing, improving, repairing, or equipping any project or any part of a
 3 project; and entering into a lease for the use or sale of a project;
- 4 (13) Making loans and participating in the making of loans; undertaking commitments to
 5 make loans and mortgages; buying and selling loans and mortgages at public or
 6 private sale; rewriting loans and mortgages; discharging loans and mortgages;
 7 foreclosing on mortgages and commencing any action to protect or enforce a right
 8 conferred upon the cabinet or placed within the control, authority, and responsibility
 9 of the cabinet under the provisions of this chapter; bidding for and purchasing
 10 property which was the subject of the mortgage at a foreclosure or other sale, and
 11 acquiring or taking possession of the property and, in that event, completing,
 12 administering, paying the principal and interest on obligations incurred in
 13 connection with the property; and disposing of and otherwise dealing with the
 14 property in a manner as may be necessary or desirable to protect the interests of the
 15 cabinet;
- 16 (14) Entering into a lease for the use or sale of a project; acquiring or contracting from
 17 any person, public entity, corporation, limited liability company, partnership,
 18 limited partnership,~~[-registered limited liability partnership,]~~ or entity, leaseholds,
 19 real or personal property, or any interest in real or personal property; owning,
 20 holding, clearing, improving, and rehabilitating and selling, assigning, exchanging,
 21 transferring, conveying, leasing, mortgaging, or otherwise disposing of or
 22 encumbering leaseholds, real or personal property, or any interest in real or personal
 23 property as is convenient for the accomplishment of the purposes of this chapter;
- 24 (15) Procuring insurance against any loss in connection with the cabinet's property,
 25 assets, or activities;
- 26 (16) Charging, imposing and collecting fees and charges in connection with any
 27 transaction, and providing for reasonable penalties for delinquent payment of fees or

- 1 charges;
- 2 (17) Indemnifying and procuring insurance indemnifying members and officers of the
3 board, and the cabinet and members and officers of the finance committee of the
4 Kentucky Economic Development Finance Authority as provided in KRS 154.20-
5 010, from personal loss or accountability from liability asserted by any person on
6 the bonds or notes of the cabinet or authority, or any personal liability or
7 accountability by reason of the issuance of bonds, notes, insurance, or guarantees; or
8 by reason of acquisition, construction, ownership, or operation of any project
9 funded in whole or part by the cabinet or authority; or by reason of any other action
10 taken or the failure to act by the cabinet or authority;
- 11 (18) Mortgaging or creating security interests in a project or any part of a project, or in a
12 lease or loan, or in the rents, revenues, or sums to be paid in favor of the holders of
13 the bonds or notes issued by the cabinet;
- 14 (19) Conveying or releasing a project or any part of a project to a lessee, purchaser, or
15 borrower under any agreement after provision has been made for the retirement in
16 full of the bonds or notes issued for that project under the terms and conditions
17 provided in the agreement, or as may be agreed with the holders of the bonds or
18 notes, or as may otherwise be agreed with the holders of the bonds or notes;
- 19 (20) Issuing non-appropriation-supported bonds and notes including, but not limited to,
20 commercial paper, refund bonds, and notes; paying the costs of issuance of bonds
21 and notes; paying interest on bonds and notes;
- 22 (21) Making and entering into contracts and agreements necessary or incidental to the
23 performance of its duties and execution of its powers;
- 24 (22) Employing consultants and other persons and employees as may be required in the
25 judgment of the board, essential to the cabinet's operations, functions, and
26 responsibilities;
- 27 (23) Providing technical assistance regarding any economic or job development project,

- 1 program, or activity;
- 2 (24) Delegating any powers, duties, responsibilities, and authority to any division,
- 3 agency, or authority under its control and administration;
- 4 (25) Reorganizing, pursuant to KRS 12.028, any organizational unit or administrative
- 5 body under its control and jurisdiction;
- 6 (26) Promulgating administrative regulations, in accordance with KRS Chapter 13A,
- 7 governing its powers, duties, and responsibilities as prescribed in this chapter and
- 8 governing the powers, duties, and responsibilities delegated to any administrative
- 9 body transferred to the cabinet by law or otherwise placed within its control and
- 10 responsibility; and
- 11 (27) Doing all other things necessary or convenient to achieve its objectives and
- 12 purposes which are not explicitly prohibited by statute.

13 Section 209. KRS 154.12-204 is amended to read as follows:

14 As used in KRS 154.12-205 to 154.12-208, unless the context requires otherwise:

- 15 (1) "Applicant" means an educational institution, business, or industry that has made
- 16 application for a grant-in-aid as authorized by KRS 154.12-205 to 154.12-208;
- 17 (2) "Board" means the board of directors of the Bluegrass State Skills Corporation;
- 18 (3) "Business and industry" means a private corporation, limited liability company,
- 19 limited partnership,~~[registered limited liability partnership,]~~ institution, firm,
- 20 person, group, or other entity or association of the same, concerned with commerce,
- 21 trade, manufacturing, or the provision of services within the Commonwealth, or a
- 22 public or nonprofit hospital licensed by the Commonwealth, or any company whose
- 23 primary purpose is the sale of goods at retail, if specific funds for grants-in-aid to
- 24 retail business and industry are appropriated by the General Assembly;
- 25 (4) "Corporation" means the Bluegrass State Skills Corporation, or BSSC;
- 26 (5) "Educational institution" means a public or nonpublic secondary or postsecondary
- 27 institution or an independent provider within the Commonwealth authorized by law

1 to provide a program of skills training or education;

2 (6) "Grant-in-aid" means funding that is provided to an educational institution and
3 business and industry by the BSSC for the development or expansion of a program
4 as provided in this chapter;

5 (7) "Program" or "program of skills training or education consistent with employment
6 needs" means a coordinated course of instruction which is designed to prepare
7 individuals for employment in a specific trade, occupation, or profession. Such
8 instruction may include:

9 (a) Classroom instruction;

10 (b) Classroom-related field, shop, factory, office, or laboratory work; and

11 (c) Basic skills, entry level training, job upgrading, retraining, and advance
12 training.

13 (8) "Technical assistance" means professional and any other assistance provided by
14 business and industry to an educational institution, which is reasonably calculated to
15 support directly the development and expansion of a particular program as defined
16 herein.

17 Section 210. KRS 154.12-2084 is amended to read as follows:

18 As used in KRS 154.12-2084 to 154.12-2089, unless the context requires otherwise:

19 (1) "Approved company" means any qualified company seeking to sponsor an
20 occupational upgrade training program or skills upgrade training program for the
21 benefit of one (1) or more of its employees, which is approved by the authority to
22 receive skills training investment credits in accordance with KRS 154.12-2084 to
23 154.12-2089;

24 (2) "Approved costs" means:

25 (a) Fees or salaries required to be paid to instructors who are employees of the
26 approved company, instructors who are full-time, part-time, or adjunct
27 instructors with an educational institution, and instructors who are consultants

- 1 on contract with an approved company in connection with an occupational
 2 upgrade training program or skills upgrade training program sponsored by an
 3 approved company;
- 4 (b) Administrative fees charged by educational institutions in connection with an
 5 occupational upgrade training program or skills upgrade training program
 6 sponsored by an approved company and specifically approved by the
 7 Bluegrass State Skills Corporation;
- 8 (c) The cost of supplies, materials, and equipment used exclusively in an
 9 occupational upgrade training program or skills upgrade training program
 10 sponsored by an approved company;
- 11 (d) The cost of leasing a training facility where space is unavailable at an
 12 educational institution or at the premises of an approved company in
 13 connection with an occupational upgrade training program or skills upgrade
 14 training program sponsored by an approved company;
- 15 (e) Employee wages to be paid in connection with an occupational upgrade
 16 training program or skills upgrade training program sponsored by an approved
 17 company; and
- 18 (f) All other costs of a nature comparable to those described in this subsection;
- 19 (3) "Bluegrass State Skills Corporation" means the Bluegrass State Skills Corporation
 20 created by KRS 154.12-205;
- 21 (4) "Commonwealth" means the Commonwealth of Kentucky;
- 22 (5) "Educational institution" means a public or nonpublic secondary or postsecondary
 23 institution or an independent provider within the Commonwealth authorized by law
 24 to provide a program of skills training or education beyond the secondary school
 25 level or to adult persons without a high school diploma or its equivalent;
- 26 (6) "Employee" means any person:
- 27 (a) Who is currently a permanent full-time employee of the qualified company;

(b) Who has been employed by the qualified company for the last twelve (12) calendar months immediately preceding the filing of the application for skills training investment credits by the qualified company;

(c) Who is a Kentucky resident, as that term is defined in KRS 141.010; and

(d) Who receives a base hourly wage which is one hundred fifty percent (150%) of the federal minimum wage plus employee benefits equal to at least fifteen percent (15%) of the applicable base hourly wage, if the qualified company is located in a county of Kentucky which has had an average countywide rate of unemployment of fifteen percent (15%) or greater in the most recent twelve (12) consecutive months for which unemployment figures are available, on the basis of the final unemployment figures calculated by the Department for Employment Services within the Cabinet for Workforce Development.

For purposes of this subsection, a "full-time employee" means an employee who has been employed by the qualified company for a minimum of thirty-five (35) hours per week for more than two hundred fifty (250) work days during the most recently ended calendar year and is subject to the tax imposed by KRS 141.020;

(7) "Occupational upgrade training" means employee training sponsored by a qualified company that is designed to qualify the employee for a promotional opportunity with the qualified company;

(8) "Preliminarily approved company" means a qualified company seeking to sponsor an occupational upgrade training program or skills upgrade training program, which has received preliminarily approval from the authority under KRS 154.12-2088 to receive a certain maximum amount of skills training investment credits;

(9) "Qualified company" means any person, corporation, limited liability company, partnership, limited partnership, ~~registered limited liability partnership,~~ sole proprietorship, firm, enterprise, franchise, association, organization, holding company, joint stock company, professional service corporation, or any other legal

1 entity through which business is conducted that has been actively engaged in any of
 2 the following qualified activities within the Commonwealth for not less than three
 3 (3) consecutive years: manufacturing, including the processing, assembling,
 4 production, or warehousing of any property; processing of agricultural and forestry
 5 products; telecommunications; health care; product research and engineering; tool
 6 and die and machine technology; mining; tourism and operation of facilities to be
 7 used in the entertainment, recreation, and convention industry; and transportation in
 8 support of manufacturing. Notwithstanding the provisions of this subsection, any
 9 company whose primary purpose is the sale of goods at retail shall not constitute a
 10 qualified company;

11 (10) "Skills upgrade training" means employee training sponsored by a qualified
 12 company that is designed to provide the employee with new skills necessary to
 13 enhance productivity, improve performance, or retain employment, including but
 14 not limited to technical and interpersonal skills training, and training that is
 15 designed to enhance the computer skills, communication skills, problem solving,
 16 reading, writing, or math skills of employees who are unable to function effectively
 17 on the job due to deficiencies in these areas, are unable to advance on the job, or
 18 who risk displacement because their skill deficiencies inhibit their training potential
 19 for new technology; and

20 (11) "Skills training investment credit" means the credit against Kentucky income tax
 21 imposed by KRS 141.020 or 141.040, as provided in KRS 154.12-2086(1).

22 Section 211. KRS 154.12-214 is amended to read as follows:

23 As used in KRS 154.12-215 to 154.12-220, unless the context otherwise requires:

24 (1) "Council" means the Small Business Advisory Council as established in KRS
 25 154.12-218;

26 (2) "Small business" means a business entity organized for profit, including but not
 27 limited to any ~~individual~~ partnership, ~~registered limited liability partnership,~~

1 corporation, limited liability company, joint venture, association or cooperative,
2 which entity:

3 (a) Is not an affiliate or subsidiary of a business dominant in its field of operation;
4 and

5 (b) Has twenty (20) or fewer full-time employees or no more than the equivalent
6 of one million dollars (\$1,000,000) in annual gross revenues in the preceding
7 fiscal year;

8 (3) "Clearinghouse" means the business information clearinghouse program of the
9 Department for Existing Business Development;

10 (4) "Manager" means the administrator of the clearinghouse program;

11 (5) "Master application" means the document designed by the clearinghouse for public
12 use in supplying all information necessary for individual state agency approval for
13 licenses the Commonwealth requires for any person subject to the provisions of
14 KRS 154.12-215 to 154.12-220;

15 (6) "Master license" means the document designed for public display issued by the
16 clearinghouse which authorizes individual state agency approval for licenses the
17 state requires for any person subject to the provisions of KRS 154.12-215 to
18 154.12-220;

19 (7) "License" means any agency permit, license, certificate, approval, registration,
20 charter, or any form of permission required by law, including agency rule, to engage
21 in any business activity;

22 (8) "Issuing agency" means any organizational unit of state government legally
23 authorized to issue, suspend, continue in effect, revoke or enforce any license;

24 (9) "Grocery store" means any retail business that derives fifty percent (50%) or more
25 of its gross receipts from the sale of food products, beverages and common
26 household goods except those businesses selling exclusively fully prepared
27 foodstuffs;

1 (10) "Business" means any operation required to have a sales and use tax permit
2 pursuant to KRS Chapter 139; and

3 (11) "Work team" means a group of individuals assembled to study and make
4 recommendations on the administration of a license and shall include representation
5 from the issuing agency, the regulated industry, and representatives that have
6 experience in the administration of licenses, but no vested interest in the particular
7 license that is being considered.

8 Section 212. KRS 154.12-325 is amended to read as follows:

9 As used in KRS 154.12-325 and 154.12-330:

10 (1) "Affiliate" has the same meaning as provided in KRS 154.22-010(2);

11 (2) "Full-time employee" means a person employed for a minimum of thirty-five (35)
12 hours per week and subject to the tax imposed by KRS 141.020;

13 (3) "Service or technology" has the same meaning as provided in KRS 154.24-010(19)
14 and shall include regional or headquarters operations of an entity engaged in the
15 defined activities, but shall not include work involving direct service to the public
16 pursuant to a license issued by the state or an association that issues licenses in lieu
17 of the state; and

18 (4) "Small business" means any business entity organized for profit, including a sole
19 proprietorship, ~~[individual]~~ partnership, limited partnership, ~~[registered limited~~
20 ~~liability partnership,]~~ corporation, limited liability company, joint venture,
21 association, or cooperative, that has fifty (50) or fewer full-time employees at the
22 time it applies for a loan under KRS 154.12-330 and is not an affiliate or subsidiary
23 of a larger corporate structure, unless the total number of employees of all the
24 affiliates and subsidiaries within that structure is fifty (50) or fewer.

25 Section 213. KRS 154.20-010 is amended to read as follows:

26 (1) There is created and established within the cabinet, subject to the authority of the
27 board, the Kentucky Economic Development Finance Authority as an agency,

instrumentality, and political subdivision of the Commonwealth and a public body corporate and politic with all powers, duties, and responsibilities delegated to it by the board or as otherwise provided by law, including all programs, powers, duties, rights, and obligations of the Kentucky Development Finance Authority and the Kentucky Rural Economic Development Authority.

(2) Any interest, right, or cause of action held in whole or in part by any person, corporation, limited liability company, partnership, limited partnership,~~[registered limited liability partnership,~~ government agency, or other entity under any agreement, contract, lease, mortgage, guarantee, bond, note, refund bond, or other financial transaction or obligation, made, issued, or otherwise entered into by any of the authorities, programs, or funds specified in subsection (1) of this section or that may be delegated to the authority by the board, shall not be impaired or otherwise diminished.

(3) Any interest, right, or cause of action held in whole or in part by any of the authorities, programs, or funds specified in subsection (1) of this section shall not be impaired or otherwise diminished, but shall be assumed by the authority, for and on behalf of the cabinet.

(4) The authority shall consist of a committee of seven (7) persons, including six (6) persons appointed by the board who shall be private citizens of the Commonwealth, and the secretary of the Finance and Administration Cabinet who shall serve ex officio. Any person appointed to the committee shall have experience and expertise in business or finance.

(5) Two (2) members initially appointed to the committee shall have a term of one (1) year each, two (2) members initially appointed to the committee shall have a term of two (2) years each, and two (2) members initially appointed to the committee shall have a term of three (3) years each, except that any person appointed to fill a vacancy shall serve only for the remainder of the unexpired term. All subsequent

1 appointments shall be for a term of three (3) years.

2 (6) Any person appointed to the committee shall be eligible for reappointment,
3 including any member of the committee appointed prior to July 15, 1994.

4 (7) The members of the committee shall elect biennially from the committee's private
5 citizen membership the following officers: chairman, vice chairman, secretary-
6 treasurer, and any assistant secretaries and assistant treasurers the committee deems
7 necessary.

8 (8) A majority of the members of the committee, determined by excluding any existing
9 vacancies from the total number of members, shall constitute a quorum. A majority
10 vote of the members present at a duly called meeting of the committee shall be
11 required for the purposes of conducting its business and exercising its powers and
12 for all other purposes.

13 (9) The committee shall prepare bylaws and procedures applicable to the operations of
14 the authority and submit them to the board to be promulgated as administrative
15 regulations in accordance with KRS Chapter 13A.

16 (10) Members of the committee shall be entitled to compensation for their services in an
17 amount of one hundred dollars (\$100) for each regular meeting of the committee
18 and shall be entitled to reimbursement for all necessary expenses in connection with
19 the performance of their duties.

20 Section 214. KRS 154.20-200 is amended to read as follows:

21 As used in KRS 154.20-200 to 154.20-216, unless the context clearly indicates otherwise:

22 (1) "Agreement" means any agreement made pursuant to KRS 154.20-210 between the
23 authority and an approved company with respect to an economic development
24 project in which inducements are granted.

25 (2) "Approval" means action taken by the authority that authorizes the eligible company
26 to receive inducements in connection with an economic development project under
27 KRS 154.20-200 to 154.20-216 and that designates the eligible company as an

1 approved company.

2 (3) "Approved company" means an eligible company that initiates an economic
3 development project in the Commonwealth whose application has been approved by
4 the authority.

5 (4) "Approved expense" means:

6 (a) For an approved company that establishes a new facility or expands an
7 existing facility:

8 1. The cost of building and construction materials, upon which Kentucky
9 sales and use tax as defined in KRS Chapter 139 is paid, purchased in
10 connection with the acquisition, construction, installation, equipping,
11 and rehabilitation of an economic development project; and

12 2. The cost of equipment purchased and used in research and development,
13 at the economic development project, upon which Kentucky sales and
14 use tax as defined in KRS Chapter 139 is paid.

15 (b) Approved expenses may only be incurred during the life of the project, not to
16 exceed eighteen (18) months from the date an eligible company is designated
17 an approved company by the authority. Provided, however, that the authority
18 may grant a twelve (12) month extension of the project for good cause shown.
19 Approved expenses shall not include any expenditure made before the date the
20 company is approved by the authority.

21 (5) "Authority" means the Kentucky Economic Development Finance Authority.

22 (6) "Economic development project" or "project" means a new or expanded service or
23 technology, manufacturing, or tourism attraction activity, conducted by the
24 approved company at a specific site in the Commonwealth, including the
25 acquisition of real property by an approved company and the construction,
26 installation, and rehabilitation of fixtures, and facilities, necessary or desirable for
27 improvement of real estate owned, used, or occupied by the approved company,

1 excluding the cost of labor. The minimum investment for an economic development
 2 project located in a preference zone shall be one hundred thousand dollars
 3 (\$100,000) and for a project not located in a preference zone, five hundred thousand
 4 dollars (\$500,000).

5 (7) "Eligible company" means any corporation, limited liability company, partnership,
 6 **limited partnership**, ~~registered limited liability partnership,~~ sole proprietorship,
 7 business trust, or other legal entity that is primarily engaged in manufacturing,
 8 service or technology, or operating or developing a tourism attraction. Any
 9 company whose primary purpose is retail sales shall not be an eligible company.

10 (8) "Equipment used in research and development" means:

11 (a) "Equipment" means assets used in the operation of a business which are
 12 subject to depreciation under Sections 167 and 168 of the Internal Revenue
 13 Code, including assets which are expensed under Section 179 of the Internal
 14 Revenue Code. The term "equipment" shall not include any tangible personal
 15 property used to maintain, restore, mend, or repair machinery or equipment,
 16 consumable operating supplies, office supplies, or maintenance supplies; and

17 (b) "Research and development" means experimental or laboratory activity that
 18 has as its ultimate goals the development of new products, the improvement of
 19 existing products, the development of new uses for existing products, or the
 20 development or improvement of methods for producing products. "Research
 21 and development" does not include testing or inspection of materials or
 22 products for quality control purposes, efficiency surveys, management studies,
 23 consumer surveys, or other market research, advertising or promotional
 24 activities, or research in connection with literary, historical or similar projects.

25 (9) "Inducements" means the sales and use tax refund allowed to an approved company
 26 for approved expenses under 154.20-200 to 154.20-216.

27 (10) "Life of the project" or "project life" means the eighteen (18) month period

1 beginning on the date the company is designated as an approved company by the
2 authority and the twelve (12) month extension if the extension is granted by the
3 authority.

4 (11) (a) "Manufacturing" means to make, assemble, process, produce, or perform any
5 other activity that changes the form or conditions of raw materials and other
6 property, and shall include any ancillary activity to the manufacturing process,
7 such as storage, warehousing, distribution, and related office facilities;

8 (b) "Manufacturing" does not include any activity involving the performance of
9 work classified by the divisions, including successor divisions, of mining in
10 accordance with the "North American Industry Classification System," as
11 revised by the United States Office of Management and Budget from time to
12 time, or any successor publication.

13 (12) "Preference zone" or "zone" means the geographic area that was designated as an
14 enterprise zone pursuant to KRS 154.45-050, and that was in existence as an
15 enterprise zone on December 31, 2003. No enterprise zone may be expanded after
16 March 18, 2005. Enterprise zone designations that are scheduled to expire, pursuant
17 to 154.45-050(2), shall expire as scheduled. All preference zones shall expire on
18 December 31, 2007.

19 (13) "Sales and use tax" means those taxes paid to the Commonwealth for the purchase
20 of goods pursuant to KRS Chapter 139.

21 (14) (a) "Service or technology" means either:

- 22 1. Any activity involving the performance of work except work classified
23 by the divisions, including successor divisions, of agriculture, forestry
24 and fishing, mining, utilities, construction, manufacturing, wholesale
25 trade, retail trade, real estate rental and leasing, educational services,
26 accommodation and food services, and public administration in
27 accordance with the "North American Industry Classification System,"

1 as revised by the United States Office of Management and Budget from
2 time to time, or any successor publication; or

3 2. Regional or headquarters operations of an entity engaged in an activity
4 listed in subparagraph 1. of this paragraph.

5 (b) Notwithstanding paragraph (a) of this subsection, "service or technology"
6 shall not include any activity involving the performance of work by an
7 individual who is providing direct service to the public pursuant to a license
8 issued by the state or an association that licenses in lieu of the state.

9 (15) "Tourism attraction" shall have the meaning assigned in KRS 148.851.

10 Section 215. KRS 154.20-254 is amended to read as follows:

11 As used in KRS 154.20-250 to 154.20-284, unless the context clearly requires otherwise:

12 (1) "Affiliate" means any person or entity who directly or indirectly, through one (1) or
13 more intermediaries, controls or is controlled by or is under common control with
14 another person or entity;

15 (2) "Agreement" means an investment fund agreement entered into pursuant to KRS
16 154.20-255(5) by the authority and an investment fund manager on behalf of the
17 investment fund, the investment fund manager, and any investor in the investment
18 fund;

19 (3) "Amended application" means a document submitted by an investment fund
20 manager, in a form acceptable to the authority and on behalf of an investment fund,
21 for the purpose of increasing the aggregate amount of available tax credits;

22 (4) "Applicant" means any person or entity who has not received approval from the
23 authority as an investment fund manager, but who has submitted or will submit an
24 application to the authority for approval as an investment fund manager;

25 (5) "Authority" means the Kentucky Economic Development Finance Authority or its
26 designee;

27 (6) "Cash contribution" means an investment of money by an investor in an investment

- 1 fund under the terms of KRS 154.20-250 to 154.20-284;
- 2 (7) "Committed cash contribution" means a legally binding agreement by an investor to
 3 make a cash contribution in an amount set forth in a written agreement between an
 4 investor and an investment fund;
- 5 (8) "Commonwealth" means the Commonwealth of Kentucky;
- 6 (9) "Credit" means a nonrefundable credit for investors against state tax liability
 7 allocated and granted by the authority pursuant to KRS 154.20-258 for qualified
 8 investments made by approved investment funds;
- 9 (10) "Entity" means any corporation, limited liability company, business development
 10 corporation, partnership, limited partnership, ~~registered limited liability~~
 11 ~~partnership,~~ sole proprietorship, association, joint stock company, receivership,
 12 trust, professional service organization, or other legal entity through which business
 13 is conducted;
- 14 (11) "Financial institution" means "financial institution" as defined in KRS 136.500(10)
 15 and includes savings and loan associations, savings banks, and similar institutions
 16 subject to the taxes imposed by KRS 136.290, 136.300, or 136.310;
- 17 (12) "Insurance company" means any insurance company subject to the taxes imposed by
 18 KRS 136.320, 136.330, or 304.3-270;
- 19 (13) "Investment fund" means any entity that is organized by an investment fund
 20 manager in compliance with applicable state and federal securities laws and
 21 regulations, and is approved by the authority to make qualified investments
 22 pursuant to KRS 154.20-256;
- 23 (14) "Investment fund manager" means any person or entity that has been approved by
 24 the authority to manage one (1) or more investment funds authorized under the
 25 provisions of KRS 154.20-250 to 154.20-284 and is in compliance with all
 26 applicable federal and state regulations;
- 27 (15) "Investor" means any person or entity, including financial institutions and insurance

1 companies, that is subject to state tax liability and that makes a cash contribution or
2 a committed cash contribution to an investment fund in accordance with the
3 provisions of KRS 154.20-250 to 154.20-284 and has not been convicted of
4 violating any of Kentucky's tax laws within the past ten (10) years;

5 (16) "Nonprofit entity" means an investor that is exempt from federal income tax under
6 Section 501(c) of the Internal Revenue Code of 1986, as amended;

7 (17) "Qualified activity" means any industrial, manufacturing, mining, mining
8 reclamation for economic development, commercial, health care, agricultural
9 enterprise, or agribusiness activity. A "qualified activity" does not include any
10 activity principally engaged in by financial institutions, commercial development
11 companies, credit companies, financial or investment advisors, brokerage or
12 financial firms, other investment funds or investment fund managers, charitable and
13 religious institutions, oil and gas exploration companies, insurance companies,
14 residential housing developers, retail establishments, or any activity that the
15 authority determines in its discretion to be against the public interest, against the
16 purposes of KRS 154.20-250 to 154.20-284, or in violation of any law;

17 (18) "Qualified investment" means an investment of money in a small business by an
18 investment fund, in compliance with applicable state and federal securities laws and
19 regulations, seeking a financial return based upon that consideration. In
20 consideration for the qualified investment, the investment fund shall receive an
21 equity interest in the small business, such as a general or limited partnership
22 interest, common or preferred stock with or without voting rights and without
23 regard to seniority position, forms of subordinate or convertible unsecured debt, or
24 both, with warrants, rights, or other means of equity conversion attached; and

25 (19) "Small business" means any entity which at the time a qualified investment is made
26 by an investment fund:

27 (a) 1. Has a net worth of five million dollars (\$5,000,000) or less or net

1 income after federal income taxes for each of the two (2) preceding
 2 fiscal years of three million dollars (\$3,000,000) or less; or

3 2. Is a knowledge-based business, as shall be prescribed by the
 4 commissioner of the Department of Innovation and Commercialization
 5 for a Knowledge Based Economy, and has a net worth of ten million
 6 dollars (\$10,000,000) or less;

7 (b) Is actively and principally engaged in a qualified activity within the
 8 Commonwealth, or will be actively and principally engaged in a qualified
 9 activity within the Commonwealth after the receipt of a qualified investment
 10 by an investment fund;

11 (c) Has no more than one hundred (100) employees; and

12 (d) Has more than fifty percent (50%) of its assets, operations, and employees
 13 located in Kentucky.

14 Section 216. KRS 154.22-010 is amended to read as follows:

15 The following words and terms as used in KRS 154.22-010 to 154.22-080, unless the
 16 context clearly indicates a different meaning, shall have the following meanings:

17 (1) "Activation date" means a date selected by an approved company in the tax
 18 incentive agreement at any time within a two (2) year period after the date of final
 19 approval of the tax incentive agreement by the authority;

20 (2) "Affiliate" means the following:

21 (a) Members of a family, including only brothers and sisters of the whole or half
 22 blood, spouse, ancestors, and lineal descendants of an individual;

23 (b) An individual, and a corporation more than fifty percent (50%) in value of the
 24 outstanding stock of which is owned, directly or indirectly, by or for that
 25 individual;

26 (c) An individual, and a limited liability company of which more than fifty
 27 percent (50%) of the capital interest or profits are owned or controlled,

- 1 directly or indirectly, by or for that individual;
- 2 (d) Two (2) corporations which are members of the same controlled group, which
- 3 includes and is limited to:
- 4 1. One (1) or more chains of corporations connected through stock
- 5 ownership with a common parent corporation if:
- 6 a. Stock possessing more than fifty percent (50%) of the total
- 7 combined voting power of all classes of stock entitled to vote or
- 8 more than fifty percent (50%) of the total value of shares of all
- 9 classes of stock of each of the corporations, except the common
- 10 parent corporation, is owned by one (1) or more of the other
- 11 corporations; and
- 12 b. The common parent corporation owns stock possessing more than
- 13 fifty percent (50%) of the total combined voting power of all
- 14 classes of stock entitled to vote or more than fifty percent (50%) of
- 15 the total value of shares of all classes of stock of at least one (1) of
- 16 the other corporations, excluding, in computing the voting power
- 17 or value, stock owned directly by the other corporations; or
- 18 2. Two (2) or more corporations if five (5) or fewer persons who are
- 19 individuals, estates, or trusts own stock possessing more than fifty
- 20 percent (50%) of the total combined voting power of all classes of stock
- 21 entitled to vote or more than fifty percent (50%) of the total value of
- 22 shares of all classes of stock of each corporation, taking into account the
- 23 stock ownership of each person only to the extent the stock ownership is
- 24 identical with respect to each corporation;
- 25 (e) A grantor and a fiduciary of any trust;
- 26 (f) A fiduciary of a trust and a fiduciary of another trust, if the same person is a
- 27 grantor of both trusts;

- 1 (g) A fiduciary of a trust and a beneficiary of that trust;
- 2 (h) A fiduciary of a trust and a beneficiary of another trust, if the same person is a
3 grantor of both trusts;
- 4 (i) A fiduciary of a trust and a corporation more than fifty percent (50%) in value
5 of the outstanding stock of which is owned, directly or indirectly, by or for the
6 trust or by or for a person who is a grantor of the trust;
- 7 (j) A fiduciary of a trust and a limited liability company more than fifty percent
8 (50%) of the capital interest, or the interest in profits, of which is owned
9 directly or indirectly, by or for the trust or by or for a person who is a grantor
10 of the trust;
- 11 (k) A corporation, **a partnership, and a limited** ~~and a~~ partnership~~, including a~~
12 ~~registered limited liability partnership,~~ if the same persons own:
- 13 1. More than fifty percent (50%) in value of the outstanding stock of the
14 corporation; and
- 15 2. More than fifty percent (50%) of the capital interest, or the profits
16 interest, in the partnership **or limited partnership**~~, including a~~
17 ~~registered limited liability partnership~~;
- 18 (l) A corporation and a limited liability company if the same persons own:
- 19 1. More than fifty percent (50%) in value of the outstanding stock of the
20 corporation; and
- 21 2. More than fifty percent (50%) of the capital interest or the profits in the
22 limited liability company;
- 23 (m) A partnership, **limited partnership**~~, including a registered limited liability~~
24 ~~partnership,~~ and a limited liability company if the same persons own:
- 25 1. More than fifty percent (50%) of the capital interest or profits in the
26 partnership **or limited partnership**~~, including a registered limited~~
27 ~~liability partnership~~; and

- 1 2. More than fifty percent (50%) of the capital interest or the profits in the
- 2 limited liability company;
- 3 (n) An S corporation and another S corporation if the same persons own more
- 4 than fifty percent (50%) in value of the outstanding stock of each corporation,
- 5 S corporation designation being the same as that designation under the
- 6 Internal Revenue Code of 1986, as amended; or
- 7 (o) An S corporation and a C corporation, if the same persons own more than fifty
- 8 percent (50%) in value of the outstanding stock of each corporation; S and C
- 9 corporation designations being the same as those designations under the
- 10 Internal Revenue Code of 1986, as amended;
- 11 (3) "Agribusiness" means any activity involving the processing of raw agricultural
- 12 products, including timber, or the providing of value-added functions with regard to
- 13 raw agricultural products;
- 14 (4) "Approved company" means any eligible company seeking to locate an economic
- 15 development project in a qualified county, which eligible company is approved by
- 16 the authority pursuant to KRS 154.22-010 to 154.22-080;
- 17 (5) "Approved costs" means:
- 18 (a) Obligations incurred for labor and to contractors, subcontractors, builders, and
- 19 materialmen in connection with the acquisition, construction, installation,
- 20 equipping, and rehabilitation of an economic development project;
- 21 (b) The cost of acquiring land or rights in land and any cost incidental thereto,
- 22 including recording fees;
- 23 (c) The cost of contract bonds and of insurance of all kinds that may be required
- 24 or necessary during the course of acquisition, construction, installation,
- 25 equipping, and rehabilitation of an economic development project which is
- 26 not paid by the contractor or contractors or otherwise provided for;
- 27 (d) All costs of architectural and engineering services, including test borings,

1 surveys, estimates, plans and specifications, preliminary investigations, and
 2 supervision of construction, as well as for the performance of all the duties
 3 required by or consequent upon the acquisition, construction, installation,
 4 equipping, and rehabilitation of an economic development project;

5 (e) All costs which shall be required to be paid under the terms of any contract or
 6 contracts for the acquisition, construction, installation, equipping, and
 7 rehabilitation of an economic development project; and

8 (f) All other costs of a nature comparable to those described above;

9 (6) "Assessment" means the job development assessment fee authorized by KRS
 10 154.22-010 to 154.22-080;

11 (7) "Authority" means the Kentucky Economic Development Finance Authority as
 12 created in KRS 154.20-010;

13 (8) "Average hourly wage" means the wage and employment data published by the
 14 Department for Employment Services in the Kentucky Cabinet for Workforce
 15 Development collectively translated into wages per hour based on a two thousand
 16 eighty (2,080) hour work year for the following sectors:

17 (a) Manufacturing;

18 (b) Transportation, communications and public utilities;

19 (c) Wholesale and retail trade;

20 (d) Finance, insurance, and real estate; and

21 (e) Services;

22 (9) "Commonwealth" means the Commonwealth of Kentucky;

23 (10) (a) "Economic development project" means and includes:

24 1. The acquisition of ownership in any real estate in a qualified county by
 25 the authority, the approved manufacturing or agribusiness company, or
 26 its affiliate;

27 2. The present ownership of real estate in a qualified county by the

1 approved manufacturing or agribusiness company or its affiliate;

2 3. The acquisition or present ownership of improvements or facilities, as
3 described in paragraph (b) of this subsection, on land which is possessed
4 or is to be possessed by the approved manufacturing or agribusiness
5 company pursuant to a ground lease having a term of sixty (60) years or
6 more; and

7 4. The new construction of an electric generation facility;

8 (b) For purposes of subparagraphs 1. and 2. of paragraph (a) of this subsection,
9 ownership of real estate shall only include fee ownership of real estate and
10 possession of real estate pursuant to a capital lease as determined in
11 accordance with Statement of Financial Accounting Standards No. 13,
12 Accounting for Leases, issued by the Financial Accounting Standards Board,
13 November 1976. With respect to subparagraphs 1., 2., and 3. of paragraph (a)
14 or paragraph (b) of this subsection, the construction, installation, equipping,
15 and rehabilitation of improvements, including fixtures and equipment, and
16 facilities necessary or desirable for improvement of the real estate, including
17 surveys; site tests and inspections; subsurface site work; excavation; removal
18 of structures, roadways, cemeteries, and other surface obstructions; filling,
19 grading, and provision of drainage, storm water retention, installation of
20 utilities such as water, sewer, sewage treatment, gas, electricity,
21 communications, and similar facilities; off-site construction of utility
22 extensions to the boundaries of the real estate; and the acquisition,
23 installation, equipping, and rehabilitation of manufacturing facilities on the
24 real estate, for use and occupancy by the approved company or its affiliates for
25 manufacturing purposes, electric generation, or for agribusiness purposes.
26 Pursuant to subparagraph 3. of paragraph (a) of this subsection, an economic
27 development project shall not include lease payments made pursuant to a

- 1 ground lease for purposes of the tax credits provided under the provisions of
2 KRS 154.22-010 to 154.22-080;
- 3 (11) "Electric generation" means the generation of electricity for resale by means of
4 combusting at least fifty percent (50%) of the total fuel used to generate electricity
5 from coal or from gas derived from coal;
- 6 (12) "Eligible company" means any corporation, limited liability company, partnership,
7 registered limited liability partnership, sole proprietorship, business trust, or any
8 other entity engaged in manufacturing, electric generation, or in agribusiness;
- 9 (13) "Employee benefits" means nonmandated costs paid by an eligible company for its
10 full-time employees for health insurance, life insurance, dental insurance, vision
11 insurance, defined benefits, 401(k) or similar plans;
- 12 (14) "Final approval" means the action taken by the authority authorizing the eligible
13 company to receive inducements under this subchapter;
- 14 (15) "Full-time employee" means a person employed by an approved company for a
15 minimum of thirty-five (35) hours per week and subject to the state income tax
16 imposed by KRS 141.020;
- 17 (16) "Inducements" means the assessment and the income tax credits allowed by KRS
18 154.22-060;
- 19 (17) "Manufacturing" means any activity involving the manufacturing, processing,
20 assembling, or production of any property, including the processing resulting in a
21 change in the conditions of the property and any activity related to it, together with
22 the storage, warehousing, distribution, and related office facilities; however,
23 "manufacturing" shall not include mining, coal or mineral processing, or extraction
24 of minerals;
- 25 (18) "Preliminary approval" means the action taken by the authority conditioning final
26 approval by the authority upon satisfaction by the eligible company of the
27 requirements under this subchapter;

1 (19) "Qualified county" means any county certified as such by the authority pursuant to
2 KRS 154.22-010 to 154.22-080;

3 (20) "Revenues" shall not be considered state funds;

4 (21) "State agency" shall have the meaning assigned to the term in KRS 56.440(8); and

5 (22) "Tax incentive agreement" means the agreement entered into, pursuant to KRS
6 154.22-050, between the authority and an approved company with respect to an
7 economic development project.

8 Section 217. KRS 154.23-010 is amended to read as follows:

9 As used in KRS 154.23-005 to 154.23-079, unless the context clearly indicates otherwise:

10 (1) **"Affiliate" has the same meaning as in Section 216 of this Act;**

11 **(2)** "Approved company" means an eligible company that locates an economic
12 development project in a qualified zone, as provided for in KRS 154.23-030;

13 **(3) [(2)]** "Approved costs" means:

14 (a) For an approved company that establishes a new manufacturing facility or
15 expands an existing manufacturing facility, the following obligations incurred
16 in its economic development project, including rent under leases subject to
17 subsection (6)(b)4. of this section:

- 18 1. The cost of labor, contractors, subcontractors, builders, and material
19 workers in connection with the acquisition, construction, installation,
20 equipping, and rehabilitation of an economic development project;
- 21 2. The cost of acquiring real estate or rights in land and any cost incidental
22 thereto, including recording fees;
- 23 3. The cost of contract bonds and insurance of all kinds that may be
24 required or necessary during the course of acquisition, construction,
25 installation, equipping, and rehabilitation of an economic development
26 project that is not paid by the contractor or contractors or otherwise
27 provided for;

1 4. The cost of architectural and engineering services, including test
 2 borings, surveys, estimates, plans and specifications, preliminary
 3 investigations, and supervision of construction, as well as for the
 4 performance of all duties required by or consequent to the acquisition,
 5 construction, installation, equipping, and rehabilitation of an economic
 6 development project;

7 5. All costs required to be paid under the terms of any contract for the
 8 acquisition, construction, installation, equipping, and rehabilitation of an
 9 economic development project; and

10 6. All other costs of a nature comparable to those described above; or

11 (b) For an approved company that establishes a new service or technology
 12 business or expands existing service or technology operations, up to a
 13 maximum of fifty percent (50%) of the total start-up costs during the term of
 14 the service and technology agreement, plus up to a maximum of fifty percent
 15 (50%) of the annual rent for each elapsed year of the service and technology
 16 agreement;

17 ~~(4)~~~~{(3)}~~ "Assessment" means the job development assessment fee authorized by KRS
 18 154.23-055;

19 ~~(5)~~~~{(4)}~~ "Authority" means the Kentucky Economic Development Finance Authority,
 20 as created in KRS 154.20-010;

21 ~~(6)~~~~{(5)}~~ "Average hourly wage" means the wage and employment data published by
 22 the Department for Employment Services in the Kentucky Cabinet for Workforce
 23 Development collectively translated into wages per hour based on a two thousand
 24 eighty (2,080) hour work year for the following sectors:

25 (a) Manufacturing;

26 (b) Transportation, communications, and public utilities;

27 (c) Wholesale and retail trade;

1 (d) Finance, insurance, and real estate; and

2 (e) Services;

3 ~~(7)~~~~(6)~~ "Commonwealth" means the Commonwealth of Kentucky;

4 ~~(8)~~~~(7)~~ "Economic development project" or "project" means:

5 (a) A new or expanded service or technology activity conducted at a new or
6 expanded site by:

7 1. An approved company; or

8 2. An approved company and its affiliate or affiliates; or

9 (b) Any of the following activities of an approved company engaged in
10 manufacturing:

11 1. The acquisition of or present ownership in any real estate in a qualified
12 zone for the purposes described in KRS 154.23-005 to 154.23-079,
13 which ownership shall include only fee simple ownership of real estate
14 and possession of real estate according to a capital lease as determined
15 in accordance with Statement of Financial Accounting Standards No. 13,
16 Accounting for Leases, issued by the Financial Accounting Standards
17 Board, November 1976;

18 2. The acquisition or present ownership of improvements or facilities on
19 land that is possessed or is to be possessed by the approved company in
20 a ground lease having a term of sixty (60) years or more; provided,
21 however, that this project shall not include lease payments made under a
22 ground lease for purposes of calculating the tax credits offered under
23 KRS 154.23-005 to 154.23-079;

24 3. The construction, installation, equipping, and rehabilitation of
25 improvements, fixtures, equipment, and facilities necessary or desirable
26 for improvement of the real estate owned, used, or occupied by the
27 approved company for manufacturing purposes. Construction activities

1 include surveys; site tests and inspections; subsurface site work;
 2 excavation; removal of structures, roadways, cemeteries, and other
 3 surface obstructions; filling, grading, and providing drainage and storm
 4 water retention; installation of utilities such as water, sewer, sewage
 5 treatment, gas, electric, communications, and similar facilities; off-site
 6 construction of utility extensions to the boundaries of the real estate; or
 7 similar activities as the authority may determine necessary for
 8 construction; and

- 9 4. The leasing of real estate and the buildings and fixtures thereon
 10 acquired, constructed, and installed with funds from grants under KRS
 11 154.23-060;

12 ~~(9)~~~~(8)~~ "Eligible company" means any corporation, limited liability company,
 13 partnership, registered limited liability partnership, sole proprietorship, business
 14 trust, or any other legal entity engaged in manufacturing, or service or technology;
 15 however, any company whose primary purpose is retail sales shall not be an eligible
 16 company;

17 ~~(10)~~~~(9)~~ "Employee benefits" means nonmandated costs paid by an eligible company
 18 for its full-time employees for health insurance, life insurance, dental insurance,
 19 vision insurance, defined benefits, 401(k) or similar plans;

20 ~~(11)~~~~(10)~~ "Final approval" means action taken by the authority that authorizes the
 21 eligible company to receive inducements in connection with a project under KRS
 22 154.23-005 to 154.23-079;

23 ~~(12)~~~~(11)~~ "Full-time employee" means a person employed by an approved company for
 24 a minimum of thirty-five (35) hours per week and subject to the state income tax
 25 imposed by KRS 141.020;

26 ~~(13)~~~~(12)~~ "Inducements" means the assessment and the income tax credits allowed to an
 27 approved company under KRS 154.23-050 and 154.23-055;

1 ~~(14)~~~~[(13)]~~ "Local government" means a city, county, or urban-county government;

2 ~~(15)~~~~[(14)]~~ "Manufacturing" means to make, assemble, process, produce, or perform any
 3 other activity that changes the form or conditions of raw materials and other
 4 property, and shall include any ancillary activity to the manufacturing process, such
 5 as storage, warehousing, distribution, and related office facilities; however,
 6 "manufacturing" shall not include mining, the extraction of minerals or coal, or
 7 processing of these resources;

8 ~~(16)~~~~[(15)]~~ "Person" means an individual, sole proprietorship, partnership, limited
 9 partnership,~~[registered limited liability partnership,]~~ joint venture, trust,
 10 unincorporated organization, association, corporation, limited liability company,
 11 institution, entity or government, whether federal, state, county, city, or otherwise,
 12 including without limitation any instrumentality, division, political subdivision,
 13 district, court, agency, or department thereof;

14 ~~(17)~~~~[(16)]~~ "Preliminary approval" means action taken by the authority that conditions
 15 final approval of an eligible company and its economic development project upon
 16 satisfaction by the eligible company of the applicable requirements under KRS
 17 154.23-005 to 154.23-079;

18 ~~(18)~~~~[(17)]~~ "Qualified employee" means an individual subject to Kentucky income tax
 19 who has resided in the qualified zone where the project exists for at least twelve
 20 (12) consecutive months preceding full-time employment by an approved company;

21 ~~(19)~~~~[(18)]~~ "Qualified statewide employee" means an individual subject to Kentucky
 22 income tax who has resided in any census tract or county in the Commonwealth that
 23 meets the criteria in KRS 154.23-015, regardless of whether the tract or county is in
 24 a qualified zone, for at least twelve (12) consecutive months preceding full-time
 25 employment by an approved company;

26 ~~(20)~~~~[(19)]~~ "Qualified zone" means any census tract or county certified as such by the
 27 authority in KRS 154.23-015 and 154.23-020;

1 ~~(21)~~~~(20)~~ "Rent" means:

- 2 (a) The actual annual rent or leasing fee paid by an approved company to a bona
3 fide entity negotiated at arms length for the use of a building by the approved
4 company to conduct the approved project for which the inducement has been
5 granted; or
- 6 (b) The fair rental value on an annual basis in a building owned by the approved
7 company of the space used by the approved company to conduct the approved
8 project for which the inducement has been granted as determined by the
9 authority using criteria that are customary in the real estate industry for the
10 type of building being used. The fair rental value shall include an analysis of
11 the cost of amortizing the cost of land and building over the period of time
12 customary in the real estate industry for the type of building and for the land
13 being utilized; and
- 14 (c) Rent shall include the customary cost of occupancy, including but not limited
15 to property taxes, heating and air conditioning, electricity, water, sewer, and
16 insurance;

17 ~~(22)~~~~(21)~~ "Service and technology agreement" means any agreement entered into, under
18 KRS 154.23-040, on behalf of the authority, an approved company engaged in
19 service or technology, and third-party lessors, if applicable, with respect to an
20 economic development project;

21 ~~(23)~~~~(22)~~ (a) "Service or technology" means either:

- 22 1. Any activity involving the performance of work, except work classified
23 by the divisions, including successor divisions, of agriculture, forestry
24 and fishing, mining, utilities, construction, manufacturing, wholesale
25 trade, retail trade, real estate rental and leasing, educational services,
26 accommodation and food services, and public administration in
27 accordance with the "North American Industry Classification System,"

1 as revised by the United States Office of Management and Budget from
 2 time to time, or any successor publication; or

3 2. Regional or headquarters operations of an entity engaged in an activity
 4 listed in subparagraph 1. of this paragraph.

5 (b) Notwithstanding paragraph (a) of this subsection, "service or technology"
 6 shall not include any activity involving the performance of work by an
 7 individual who is providing direct service to the public pursuant to a license
 8 issued by the state or an association that licenses in lieu of the state;

9 ~~(24)~~[(23)] "Start-up costs" means the acquisition cost associated with the project and
 10 related to furnishing and equipping a building for ordinary business functions,
 11 including computers, nonrecurring costs of fixed telecommunication equipment,
 12 furnishings, office equipment, and the relocation of out-of-state equipment, as
 13 verified and approved by the authority in accordance with KRS 154.23-040; and

14 ~~(25)~~[(24)] "Tax incentive agreement" means that agreement entered into, pursuant to
 15 KRS 154.23-035, between the authority and an approved company with respect to
 16 an economic development project~~;~~ and

17 ~~(25) "Affiliate" means the following:~~

18 ~~(a) Members of a family, including only brothers and sisters of the whole or half~~
 19 ~~blood, spouse, ancestors, and lineal descendants of an individual;~~

20 ~~(b) An individual, and a corporation more than fifty percent (50%) in value of the~~
 21 ~~outstanding stock of which is owned, directly or indirectly, by or for that~~
 22 ~~individual;~~

23 ~~(c) An individual, and a limited liability company of which more than fifty~~
 24 ~~percent (50%) of the capital interest or profits are owned or controlled,~~
 25 ~~directly or indirectly, by or for that individual;~~

26 ~~(d) Two (2) corporations which are members of the same controlled group, which~~
 27 ~~includes and is limited to:~~

1. ~~One (1) or more chains of corporations connected through stock ownership with a common parent corporation if:~~

a. ~~Stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of each of the corporations, except the common parent corporation, is owned by one (1) or more of the other corporations; and~~

b. ~~The common parent corporation owns stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of at least one (1) of the other corporations, excluding, in computing the voting power or value, stock owned directly by the other corporations; or~~

2. ~~Two (2) or more corporations if five (5) or fewer persons who are individuals, estates, or trusts own stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of each corporation, taking into account the stock ownership of each person only to the extent the stock ownership is identical with respect to each corporation;~~

(e) ~~A grantor and a fiduciary of any trust;~~

(f) ~~A fiduciary of a trust and a fiduciary of another trust, if the same person is a grantor of both trusts;~~

(g) ~~A fiduciary of a trust and a beneficiary of that trust;~~

(h) ~~A fiduciary of a trust and a beneficiary of another trust, if the same person is a grantor of both trusts;~~

~~(i) A fiduciary of a trust and a corporation more than fifty percent (50%) in value of the outstanding stock of which is owned, directly or indirectly, by or for the trust or by or for a person who is a grantor of the trust;~~

~~(j) A fiduciary of a trust and a limited liability company, of which more than fifty percent (50%) of the capital interest, or the interest in profits, is owned directly or indirectly, by or for the trust or by or for a person who is a grantor of the trust;~~

~~(k) A corporation and a partnership, including a registered limited liability partnership, if the same persons own:~~

~~1. More than fifty percent (50%) in value of the outstanding stock of the corporation; and~~

~~2. More than fifty percent (50%) of the capital interest, or the profits interest, in the partnership, including a registered limited liability partnership;~~

~~(l) A corporation and a limited liability company if the same persons own:~~

~~1. More than fifty percent (50%) in value of the outstanding stock of the corporation; and~~

~~2. More than fifty percent (50%) of the capital interest or the profits in the limited liability company;~~

~~(m) A partnership, including a registered limited liability partnership, and a limited liability company if the same persons own:~~

~~1. More than fifty percent (50%) of the capital interest or profits in the partnership, including a registered limited liability partnership; and~~

~~2. More than fifty percent (50%) of the capital interest or the profits in the limited liability company;~~

~~(n) An S corporation and another S corporation if the same persons own more than fifty percent (50%) in value of the outstanding stock of each corporation;~~

~~S corporation designation being the same as that designation under the Internal Revenue Code of 1986, as amended; or~~

~~(e) An S corporation and a C corporation, if the same persons own more than fifty percent (50%) in value of the outstanding stock of each corporation; S and C corporation designations being the same as those designations under the Internal Revenue Code of 1986, as amended].~~

Section 218. KRS 154.24-010 is amended to read as follows:

The following words and terms, unless the context clearly indicates a different meaning, shall have the following respective meanings in KRS 154.24-010 to 154.24-150:

(1) "Affiliate" *has the same meaning as in Section 216 of this Act*~~[means the following:~~

~~(a) Members of a family, including only brothers and sisters of the whole or half blood, spouse, ancestors, and lineal descendants of an individual;~~

~~(b) An individual, and a corporation more than fifty percent (50%) in value of the outstanding stock of which is owned, directly or indirectly, by or for that individual;~~

~~(c) An individual, and a limited liability company of which more than fifty percent (50%) of the capital interest or profits are owned or controlled, directly or indirectly, by or for that individual;~~

~~(d) Two (2) corporations which are members of the same controlled group, which includes and is limited to:~~

~~1. One (1) or more chains of corporations connected through stock ownership with a common parent corporation if:~~

~~a. Stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of each of the corporations, except the common~~

parent corporation, is owned by one (1) or more of the other corporations; and

b. ~~The common parent corporation owns stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of at least one (1) of the other corporations, excluding, in computing the voting power or value, stock owned directly by the other corporations; or~~

2. ~~Two (2) or more corporations if five (5) or fewer persons who are individuals, estates, or trusts own stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of each corporation, taking into account the stock ownership of each person only to the extent the stock ownership is identical with respect to each corporation;~~

(e) ~~A grantor and a fiduciary of any trust;~~

(f) ~~A fiduciary of a trust and a fiduciary of another trust, if the same person is a grantor of both trusts;~~

(g) ~~A fiduciary of a trust and a beneficiary of that trust;~~

(h) ~~A fiduciary of a trust and a beneficiary of another trust, if the same person is a grantor of both trusts;~~

(i) ~~A fiduciary of a trust and a corporation more than fifty percent (50%) in value of the outstanding stock of which is owned, directly or indirectly, by or for the trust or by or for a person who is a grantor of the trust;~~

(j) ~~A fiduciary of a trust and a limited liability company, of which more than fifty percent (50%) of the capital interest, or the interest in profits, is owned directly or indirectly, by or for the trust or by or for a person who is a grantor~~

1 of the trust;

2 ~~(k) A corporation and a partnership, including a registered limited liability~~
 3 ~~partnership, if the same persons own:~~

4 1. ~~More than fifty percent (50%) in value of the outstanding stock of the~~
 5 ~~corporation; and~~

6 2. ~~More than fifty percent (50%) of the capital interest, or the profits~~
 7 ~~interest, in the partnership, including a registered limited liability~~
 8 ~~partnership;~~

9 ~~(l) A corporation and a limited liability company if the same persons own:~~

10 1. ~~More than fifty percent (50%) in value of the outstanding stock of the~~
 11 ~~corporation; and~~

12 2. ~~More than fifty percent (50%) of the capital interest or the profits in the~~
 13 ~~limited liability company;~~

14 ~~(m) A partnership, including a registered limited liability partnership, and a~~
 15 ~~limited liability company if the same persons own:~~

16 1. ~~More than fifty percent (50%) of the capital interest or profits in the~~
 17 ~~partnership, including a registered limited liability partnership; and~~

18 2. ~~More than fifty percent (50%) of the capital interest or the profits in the~~
 19 ~~limited liability company;~~

20 ~~(n) An S corporation and another S corporation if the same persons own more~~
 21 ~~than fifty percent (50%) in value of the outstanding stock of each corporation,~~
 22 ~~S corporation designation being the same as that designation under the~~
 23 ~~Internal Revenue Code of 1986, as amended; or~~

24 ~~(o) An S corporation and a C corporation, if the same persons own more than fifty~~
 25 ~~percent (50%) in value of the outstanding stock of each corporation; S and C~~
 26 ~~corporation designations being the same as those designations under the~~
 27 ~~Internal Revenue Code of 1986, as amended];~~

- 1 (2) "Agreement" means the service and technology agreement made pursuant to KRS
2 154.24-120, between the authority and an approved company with respect to an
3 economic development project;
- 4 (3) "Approved company" means any eligible company seeking to locate an economic
5 development project from outside the Commonwealth into the Commonwealth, or
6 undertaking an economic development project in the Commonwealth for which it is
7 approved pursuant to KRS 154.24-100;
- 8 (4) "Approved costs" means fifty percent (50%) of the total of the start-up costs up to a
9 maximum of ten thousand dollars (\$10,000) per new full-time job created and to be
10 held by a Kentucky resident subject to the personal income tax of the
11 Commonwealth, plus fifty percent (50%) of the annual rent for each elapsed year of
12 the service and technology agreement;
- 13 (5) "Assessment" means the "service and technology job creation assessment fee"
14 authorized by KRS 154.24-110;
- 15 (6) "Authority" means the Kentucky Economic Development Finance Authority, as
16 created in KRS 154.20-010;
- 17 (7) "Average hourly wage" means the wage and employment data published by the
18 Department for Employment Services in the Kentucky Cabinet for Workforce
19 Development collectively translated into wages per hour based on a two thousand
20 eighty (2,080) hour work year for the following sectors:
- 21 (a) Manufacturing;
- 22 (b) Transportation, communications, and public utilities;
- 23 (c) Wholesale and retail trade;
- 24 (d) Finance, insurance, and real estate; and
- 25 (e) Services;
- 26 (8) "Commonwealth" means the Commonwealth of Kentucky;
- 27 (9) "Economic development project" or "project" means a new or expanded service or

1 technology activity conducted at a new or expanded site by:

2 (a) An approved company; or

3 (b) An approved company and its affiliate or affiliates;

4 (10) "Eligible company" means any corporation, limited liability company, partnership,
5 limited partnership, ~~registered limited liability partnership,~~ sole proprietorship,
6 business trust, or any other entity engaged in service or technology and meeting the
7 standards promulgated by the authority in accordance with KRS Chapter 13A;

8 (11) "Employee benefits" means nonmandated costs paid by an approved company for
9 its full-time employees for health insurance, life insurance, dental insurance, vision
10 insurance, defined benefits, 401(k) or similar plans;

11 (12) "Final approval" means the action taken by the authority authorizing the eligible
12 company to receive inducements under this subchapter;

13 (13) "Full-time employee" means a person employed by an approved company for a
14 minimum of thirty-five (35) hours per week and subject to the state tax imposed by
15 KRS 141.020;

16 (14) "In lieu of credits" means a local government appropriation to the extent permitted
17 by law, or other form of local government grant or service benefit, directly related
18 to the economic development project and in an amount equal to one percent (1%) of
19 employees' gross wages, exclusive of any noncash benefits provided to an
20 employee, or the provision by a local government of an in-kind contribution directly
21 related to the economic development project and in an amount equal to one half
22 (1/2) of the rent for the duration of the agreement;

23 (15) "Inducements" means the income tax credits allowed and the assessment authorized
24 by KRS 154.24-110, which are intended to induce companies engaged in service
25 and technology industries to locate or expand in the Commonwealth;

26 (16) "Person" means an individual, sole proprietorship, partnership, limited
27 partnership, ~~registered limited liability partnership,~~ joint venture, trust,

unincorporated organization, association, corporation, limited liability company, institution, entity or government, whether federal, state, county, city, or otherwise, including without limitation any instrumentality, division, political subdivision, district, court, agency, or department thereof;

(17) "Preliminary approval" means the action taken by the authority conditioning final approval by the authority upon satisfaction by the eligible company of the requirements under this subchapter;

(18) "Rent" means:

(a) The actual annual rent or leasing fee paid by an approved company to a bona fide entity negotiated at arms length for the use of a building by the approved company to conduct the approved activity for which the inducement has been granted; or

(b) The fair rental value on an annual basis in a building owned by the approved company of the space used by the approved company to conduct the approved activity for which the inducement has been granted as determined by the authority using criteria which is customary in the real estate industry for the type of building being used. The fair rental value shall include an analysis of the cost of amortizing the cost of land and building over the period of time customary in the real estate industry for the type of building and for the land being utilized;

(c) Rent shall include the customary cost of occupancy, including but not limited to property taxes, heating and air-conditioning, electricity, water, sewer, and insurance;

(19) (a) "Service or technology" means either:

1. Any activity involving the performance of work, except work classified by the divisions, including successor divisions, of agriculture, forestry and fishing, mining, utilities, construction, manufacturing, wholesale

1 trade, retail trade, real estate rental and leasing, educational services,
 2 accommodation and food services, and public administration in
 3 accordance with the "North American Industry Classification System,"
 4 as revised by the United States Office of Management and Budget from
 5 time to time, or any successor publication; or

6 2. Regional or headquarters operations of an entity engaged in an activity
 7 listed in subparagraph 1. of this paragraph.

8 (b) Notwithstanding paragraph (a) of this subsection, "service or technology"
 9 shall not include any activity involving the performance of work by an
 10 individual who is providing direct service to the public pursuant to a license
 11 issued by the state or an association that licenses in lieu of the state; and

12 (20) "Start-up costs" means the acquisition cost associated with the project related to the
 13 furnishing and equipping the building for ordinary business functions, including
 14 computers, furnishings, office equipment, the relocation of out-of-state equipment,
 15 and nonrecurring costs of fixed telecommunication equipment as verified and
 16 approved by the authority in accordance with KRS 154.24-130.

17 Section 219. KRS 154.26-010 is amended to read as follows:

18 As used in this subchapter, unless the context clearly indicates otherwise:

19 (1) "Agreement" means a revitalization agreement entered into, pursuant to KRS
 20 154.26-090, on behalf of the authority and an approved company with respect to an
 21 economic revitalization project;

22 (2) "Agribusiness" means any activity involving the processing of raw agricultural
 23 products, including timber, or the providing of value-added functions with regard to
 24 raw agricultural products;

25 (3) "Appropriation agreement" means an agreement entered into, pursuant to KRS
 26 154.26-090(1)(f)2., among the approved company, the authority, and local
 27 governmental entities with respect to appropriations by these local governmental

- 1 entities for the benefit of the approved company;
- 2 (4) "Approved company" means any eligible company approved by the authority
3 pursuant to KRS 154.26-080 requiring an economic revitalization project;
- 4 (5) "Approved costs" means:
- 5 (a) Obligations incurred for labor and to vendors, contractors, subcontractors,
6 builders, suppliers, deliverymen, and materialmen in connection with the
7 acquisition, construction, equipping, rehabilitation, and installation of an
8 economic revitalization project;
- 9 (b) The cost of contract bonds and of insurance of all kinds that may be required
10 or necessary during the course of acquisition, construction, equipping,
11 rehabilitation, and installation of an economic revitalization project which is
12 not paid by the vendor, supplier, deliveryman, contractor, or otherwise
13 provided;
- 14 (c) All costs of architectural and engineering services, including estimates, plans
15 and specifications, preliminary investigations, and supervision of construction,
16 rehabilitation and installation, as well as for the performance of all the duties
17 required by or consequent upon the acquisition, construction, equipping,
18 rehabilitation, and installation of an economic revitalization project;
- 19 (d) All costs required to be paid under the terms of any contract for the
20 acquisition, construction, equipping, rehabilitation, and installation of an
21 economic revitalization project;
- 22 (e) All costs required for the installation of utilities, including, but not limited to,
23 water, sewer, sewer treatment, gas, electricity, communications, and railroads,
24 and including off-site construction of the facilities paid for by the approved
25 company; and
- 26 (f) All other costs comparable with those described above;
- 27 (6) "Assessment" means the job revitalization assessment fee authorized by KRS

- 1 154.26-100;
- 2 (7) "Authority" means the Kentucky Economic Development Finance Authority created
- 3 by KRS 154.20-010;
- 4 (8) "Commonwealth" means the Commonwealth of Kentucky;
- 5 (9) "Economic revitalization project" or "project" means the acquisition, construction,
- 6 equipping, and rehabilitation of machinery and equipment, constituting fixtures or
- 7 otherwise, and with respect thereto, the construction, rehabilitation, and installation
- 8 of improvements of facilities necessary or desirable for the acquisition,
- 9 construction, installation, and rehabilitation of the machinery and equipment,
- 10 including surveys; installation of utilities, including water, sewer, sewage treatment,
- 11 gas, electricity, communications, and similar facilities; and off-site construction of
- 12 utility extensions to the boundaries of the real estate on which the facilities are
- 13 located, all of which are utilized to improve the economic situation of the approved
- 14 company to allow the approved company to remain in operation and retain or create
- 15 jobs;
- 16 (10) "Eligible company" means any corporation, limited liability company, partnership,
- 17 limited partnership,~~[registered limited liability partnership,]~~ sole proprietorship,
- 18 business trust, or any other entity:
- 19 (a) Employing or intending to employ full-time a minimum of twenty-five (25)
- 20 persons engaged in manufacturing or agribusiness operations at the same
- 21 facility, whether owned or leased, located and operating within the
- 22 Commonwealth on a permanent basis for a reasonable period of time
- 23 preceding the request for approval by the authority of an economic
- 24 revitalization project, including facilities where manufacturing or agribusiness
- 25 operations has been temporarily suspended and which meets the standards
- 26 promulgated by the authority pursuant to KRS 154.26-080; or
- 27 (b) Having a base contract for annual delivery of at least four (4) million tons of

1 coal mined within the Commonwealth and employing a minimum of five
 2 hundred (500) persons engaged in coal mining and processing operations at
 3 facilities, whether owned or leased, located and operating within the
 4 Commonwealth on a permanent basis for a reasonable period of time
 5 preceding the request for approval by the authority of an economic
 6 revitalization project, including facilities on or adjacent to where coal mining
 7 and processing operations have been temporarily suspended or severely
 8 reduced, and which meets the standards promulgated by the authority under
 9 KRS 154.26-080;

10 (11) "Final approval" means the action taken by the authority authorizing the eligible
 11 company to receive inducements under this subchapter;

12 (12) "Inducements" means the Kentucky tax credit and the job revitalization assessment
 13 fee as prescribed in KRS 154.26-090 and 154.26-100;

14 (13) "Manufacturing" means any activity involving the manufacturing, processing,
 15 assembling, or production of any property, including the processing that results in a
 16 change in the condition of the property and any related activity or function, together
 17 with the storage, warehousing, distribution, and related office facilities;

18 (14) "Coal mining and processing" means activities resulting in the eligible company
 19 being subject to the tax imposed by KRS Chapter 143;

20 (15) "Preliminary approval" means the action taken by the authority conditioning final
 21 approval by the authority upon satisfaction by the eligible company of the
 22 requirements under this subchapter; and

23 (16) "State agency" means any state administrative body, agency, department, or division
 24 as defined in KRS 42.010, or any board, commission, institution, or division
 25 exercising any function of the state which is not an independent municipal
 26 corporation or political subdivision.

27 Section 220. KRS 154.28-010 is amended to read as follows:

1 As used in KRS 154.28-010 to 154.28-100, unless the context clearly indicates otherwise:

2 (1) "Activation date" means a date selected by an approved company in the agreement
3 at any time within the two (2) year period after the date of final approval of the
4 agreement by the authority;

5 (2) "Affiliate" has the same meaning as in Section 216 of this Act~~means the~~
6 following:

7 ~~(a) Members of a family, including only brothers and sisters of the whole or half~~
8 ~~blood, spouse, ancestors, and lineal descendants of an individual;~~

9 ~~(b) An individual and a corporation more than fifty percent (50%) in value of the~~
10 ~~outstanding stock of which is owned, directly or indirectly, by or for that~~
11 ~~individual;~~

12 ~~(c) An individual, and a limited liability company of which more than fifty~~
13 ~~percent (50%) of the capital interest or the profits interest of which is owned,~~
14 ~~directly or indirectly, by or for that individual;~~

15 ~~(d) Two (2) corporations which are members of the same controlled group, which~~
16 ~~includes and is limited to:~~

17 ~~1. One (1) or more chains of corporations connected through stock~~
18 ~~ownership with a common parent corporation if:~~

19 ~~a. Stock possessing more than fifty percent (50%) of the total~~
20 ~~combined voting power of all classes of stock entitled to vote or~~
21 ~~more than fifty percent (50%) of the total value of shares of all~~
22 ~~classes of stock of each of the corporations, except the common~~
23 ~~parent corporation, is owned by one (1) or more of the other~~
24 ~~corporations; and~~

25 ~~b. The common parent corporation owns stock possessing more than~~
26 ~~fifty percent (50%) of the total combined voting power of all~~
27 ~~classes of stock entitled to vote or more than fifty percent (50%) of~~

1 the total value of shares of all classes of stock of at least one (1) of
2 the other corporations, excluding, in computing such voting power
3 or value, stock owned directly by the other corporations; or

4 2. ~~Two (2) or more corporations if five (5) or fewer persons who are~~
5 ~~individuals, estates, or trusts own stock possessing more than fifty~~
6 ~~percent (50%) of the total combined voting power of all classes of stock~~
7 ~~entitled to vote or more than fifty percent (50%) of the total value of~~
8 ~~shares of all classes of stock of each corporation, taking into account the~~
9 ~~stock ownership of each person only to the extent the stock ownership is~~
10 ~~identical with respect to each corporation;~~

11 ~~(e) A grantor and a fiduciary of any trust;~~

12 ~~(f) A fiduciary of a trust and a fiduciary of another trust, if the same person is a~~
13 ~~grantor of both trusts;~~

14 ~~(g) A fiduciary of a trust and a beneficiary of that trust;~~

15 ~~(h) A fiduciary of a trust and a beneficiary of another trust, if the same person is a~~
16 ~~grantor of both trusts;~~

17 ~~(i) A fiduciary of a trust and a corporation more than fifty percent (50%) in value~~
18 ~~of the outstanding stock of which is owned, directly or indirectly, by or for the~~
19 ~~trust or by or for a person who is a grantor of the trust;~~

20 ~~(j) A fiduciary of a trust and a limited liability company of which more than fifty~~
21 ~~percent (50%) of the capital interest or the profits interest of which is owned,~~
22 ~~directly or indirectly, by or for the trust or by or for a person who is a grantor~~
23 ~~of the trust;~~

24 ~~(k) A corporation and a partnership, including a registered limited liability~~
25 ~~partnership, if the same persons own:~~

26 1. ~~More than fifty percent (50%) in value of the outstanding stock of the~~
27 ~~corporation; and~~

- 1 ~~2. More than fifty percent (50%) of the capital interest, or the profits~~
2 ~~interest, in the partnership, including a registered limited liability~~
3 ~~partnership;~~
- 4 ~~(l) A corporation and a limited liability company if the same persons own:~~
5 ~~1. More than fifty percent (50%) in value of the outstanding stock of the~~
6 ~~corporation; and~~
7 ~~2. More than fifty percent (50%) of the capital interest or the profits in the~~
8 ~~limited liability company;~~
- 9 ~~(m) A partnership, including a registered limited liability partnership, and a~~
10 ~~limited liability company if the same persons own:~~
11 ~~1. More than fifty percent (50%) of the capital interest or profits in the~~
12 ~~partnership, including a registered limited liability partnership; and~~
13 ~~2. More than fifty percent (50%) of the capital interest or profits in the~~
14 ~~limited liability company;~~
- 15 ~~(n) An S corporation and another S corporation if the same persons own more~~
16 ~~than fifty percent (50%) in value of the outstanding stock of each corporation;~~
17 ~~S corporation designation being the same as that designation under the~~
18 ~~Internal Revenue Code of 1986, as amended; or~~
- 19 ~~(o) An S corporation and a C corporation, if the same persons own more than fifty~~
20 ~~percent (50%) in value of the outstanding stock of each corporation: S and C~~
21 ~~corporation designations being the same as those designations under the~~
22 ~~Internal Revenue Code of 1986, as amended];~~
- 23 (3) "Agreement" means the tax incentive agreement entered into, pursuant to KRS
24 154.28-090, between the authority and an approved company with respect to an
25 economic development project;
- 26 (4) "Agribusiness" means any activity involving the processing of raw agricultural
27 products, including timber, or the providing of value-added functions with regard to

1 raw agricultural products;

2 (5) "Approved company" means any eligible company, approved by the authority
3 pursuant to KRS 154.28-080, requiring an economic development project;

4 (6) "Approved costs" means:

5 (a) Obligations incurred for labor and to vendors, contractors, subcontractors,
6 builders, suppliers, deliverymen, and materialmen in connection with the
7 acquisition, construction, rehabilitation, and installation of an economic
8 development project;

9 (b) The cost of contract bonds and of insurance of all kinds that may be required
10 or necessary during the course of acquisition, construction, rehabilitation, and
11 installation of an economic project which is not paid by the vendor, supplier,
12 deliverymen, contractors, or otherwise else provided;

13 (c) All costs of architectural and engineering services, including estimates, plans
14 and specifications, preliminary investigations, and supervision of construction,
15 rehabilitation, and installation, as well as for the performance of all the duties
16 required by or consequent upon the acquisition, construction, rehabilitation,
17 and installation of an economic development project;

18 (d) All costs which shall be required to be paid under the terms of any contract for
19 the acquisition, construction, rehabilitation, and installation of an economic
20 development project;

21 (e) All costs which shall be required for the installation of utilities such as water,
22 sewer, sewer treatment, gas, electricity, communications, railroads, and
23 similar facilities, and including offsite construction of the facilities paid for by
24 the approved company; and

25 (f) All other costs comparable to those described above;

26 (7) "Assessment" means the job development assessment fee authorized by this section
27 to KRS 154.28-100;

- 1 (8) "Authority" means the Kentucky Economic Development Finance Authority created
2 by KRS 154.20-010;
- 3 (9) "Average hourly wage" means the wage and employment data published by the
4 Department for Employment Services in the Kentucky Cabinet for Workforce
5 Development collectively translated into wages per hour based on a two thousand
6 eighty (2,080) hour work year for the following sectors:
- 7 (a) Manufacturing;
- 8 (b) Transportation, communications, and public utilities;
- 9 (c) Wholesale and retail trade;
- 10 (d) Finance, insurance, and real estate; and
- 11 (e) Services;
- 12 (10) "Commonwealth" means the Commonwealth of Kentucky;
- 13 (11) (a) "Economic development project" or "project" means and includes:
- 14 1. The acquisition of ownership in any real estate by the approved
15 manufacturing or agribusiness company or its affiliate;
- 16 2. The present ownership of real estate by the approved manufacturing or
17 agribusiness company or its affiliate; or
- 18 3. The acquisition or present ownership of improvements or facilities, as
19 described in paragraph (b) of this subsection, on land which is possessed
20 or is to be possessed by the approved company pursuant to a ground
21 lease having a term of sixty (60) years or more.
- 22 (b) For purposes of subparagraphs 1. and 2. of paragraph (a) of this subsection,
23 ownership of real estate shall only include fee ownership of real estate and
24 possession of real estate pursuant to a capital lease as determined in
25 accordance with Statement of Financial Accounting Standards No. 13,
26 Accounting for Leases, issued by the Financial Accounting Standards Board,
27 November 1976. With respect to subparagraphs 1., 2., and 3. of paragraph (a)

1 of this subsection, the construction, installation, equipping, and rehabilitating
 2 of improvements, including fixtures and equipment directly involved in the
 3 manufacturing process, and facilities necessary or desirable for improvement
 4 of the real estate shall include: surveys, site tests, and inspections; subsurface
 5 site work and excavation; removal of structures, roadways, cemeteries, and
 6 other site obstructions; filling, grading, provision of drainage, and storm water
 7 retention; installation of utilities such as water, sewer, sewage treatment, gas,
 8 electricity, communications, and similar facilities; offsite construction of
 9 utility extensions to the boundaries of the real estate; and the acquisition,
 10 installation, equipping, and rehabilitation of manufacturing facilities or
 11 agribusiness operations on the real estate for the use of the approved company
 12 or its affiliates for manufacturing or agribusiness operational purposes.
 13 Pursuant to paragraphs (a)3. and (b) of this subsection, an economic
 14 development project shall not include lease payments made pursuant to a
 15 ground lease for purposes of the tax credits provided under the provisions of
 16 KRS 154.28-010 to 154.28-100. An economic development project shall
 17 include the equipping of a facility with equipment but, for purposes of the tax
 18 credits provided under the provisions of KRS 154.28-010 to 154.28-090, only
 19 to the extent of ten thousand dollars (\$10,000) per job created by and
 20 maintained at the economic development project;

21 (12) "Eligible company" means any corporation, limited liability company, partnership,
 22 **limited partnership**, ~~registered limited liability partnership,~~ sole proprietorship,
 23 trust, or any other entity engaged in manufacturing or agribusiness operations;

24 (13) "Employee benefits" means nonmandated costs paid by an eligible company for its
 25 full-time employees for health insurance, life insurance, dental insurance, vision
 26 insurance, defined benefits, 401(k) or similar plans;

27 (14) "Full-time employee" means a person employed by an approved company for a

1 minimum of thirty-five (35) hours per week and subject to the state income tax
2 imposed by KRS 141.020;

3 (15) "Inducement" means the assessment or the Kentucky income tax credit as set forth
4 in KRS 154.28-090;

5 (16) "Manufacturing" means any activity involving the manufacturing, processing,
6 assembling, or production of any property, including the processing resulting in a
7 change in the conditions of the property, and any activity functionally related to it,
8 together with storage, warehousing, distribution, and related office facilities;
9 however, "manufacturing" shall not include mining, coal or mineral processing, or
10 extraction of minerals; and

11 (17) "State agency" shall have the meaning assigned to the term in KRS 56.440(8).

12 Section 221. KRS 154.34-010 is amended to read as follows:

13 As used in KRS 154.34-010 to 154.34-100, unless the context clearly indicates otherwise:

14 (1) "Approved company" means any eligible company for which the authority has
15 granted final approval of its application pursuant to KRS 154.34-070;

16 (2) "Approved costs" means that portion of the eligible costs approved by the authority
17 that an approved company may recover through the inducements authorized by KRS
18 154.34-010 to 154.34-100; however, approved costs shall not exceed ten percent
19 (10%) of the eligible costs;

20 (3) "Authority" means the Kentucky Economic Development Finance Authority created
21 by KRS 154.20-010;

22 (4) "Commonwealth" means the Commonwealth of Kentucky;

23 (5) "Eligible company" means any corporation, limited liability company, partnership,
24 limited partnership, ~~registered limited liability partnership,~~ sole proprietorship,
25 business trust, or any other entity designated by the United States Department of
26 Commerce, United States Census Bureau North American Industry Classification
27 System code of 336211, 336111, 336112, or 336120 that employs a minimum of

1 one thousand (1,000) full-time persons engaged in manufacturing at the same
2 facility or at multiple facilities located within the same county, whether owned or
3 leased, is located and operating within the Commonwealth on a permanent basis for
4 a reasonable period of time preceding the request for approval by the authority of a
5 reinvestment project which meets the standards set forth in KRS 154.34-070, and
6 has not been an approved company in an industrial revitalization project under
7 Subchapter 26 of KRS Chapter 154 for a period of at least five (5) years;

8 (6) "Eligible costs" means:

9 (a) Obligations incurred for labor and to vendors, contractors, subcontractors,
10 builders, suppliers, deliverymen, and materialmen in connection with the
11 acquisition, construction, equipping, rehabilitation, and installation of an
12 existing manufacturing reinvestment project;

13 (b) The cost of contract bonds and of insurance of all kinds that may be required
14 or necessary during the course of acquisition, construction, equipping,
15 rehabilitation, and installation of a reinvestment project which is not paid by
16 the vendor, supplier, deliveryman, contractor, or otherwise provided;

17 (c) All costs of architectural and engineering services, including estimates, plans
18 and specifications, preliminary investigations, and supervision of construction,
19 rehabilitation and installation, as well as for the performance of all the duties
20 required by or consequent upon the acquisition, construction, equipping,
21 rehabilitation, and installation of a reinvestment project;

22 (d) All costs required to be paid under the terms of any contract for the
23 acquisition, construction, equipping, rehabilitation, and installation of an
24 existing manufacturing reinvestment project; and

25 (e) All costs required for the installation of utilities, including but not limited to
26 water, sewer, sewer treatment, gas, electricity, communications, and access to
27 transportation, and including off-site construction of the facilities paid for by

1 the approved company;

2 (7) "Equipment" means manufacturing machinery installed by the approved company at
3 the project; however, equipment shall not mean accessories or appurtenances of
4 existing or new manufacturing machinery including but not limited to molds, dies,
5 or other attachments of a less permanent nature;

6 (8) "Final approval" means the action taken after July 1, 2004, by the authority
7 designating an eligible company that has previously received a preliminary approval
8 as an approved company and authorizing the execution of a reinvestment agreement
9 between the authority and the approved company;

10 (9) "Inducements" means the Kentucky tax credits as authorized by KRS 154.34-010 to
11 154.34-100;

12 (10) "Manufacturing" means any activity involving the manufacturing, processing,
13 assembling, or production of any property, including the processing that results in a
14 change in the condition of the property and any related activity or function, together
15 with the storage, warehousing, distribution, and related office facilities;

16 (11) "Preliminary approval" means the action taken by the authority designating an
17 eligible company as a preliminarily approved company, and conditioning final
18 approval by the authority upon satisfaction by the eligible company of the
19 requirements set forth in the preliminary approval;

20 (12) "Reinvestment agreement" or "agreement" means the agreement entered into
21 pursuant to KRS 154.34-080 on behalf of the authority and an approved company
22 with respect to a reinvestment project;

23 (13) "Reinvestment project" or "project" means the acquisition, construction, and
24 installation of new equipment and, with respect thereto, the construction,
25 rehabilitation, and installation of improvements to facilities necessary to house the
26 acquisition, construction, and installation of new equipment, including surveys;
27 installation of utilities including water, sewer, sewage treatment, gas, electricity,

communications, and similar facilities; off-site construction of utility extensions to the boundaries of the real estate on which the facilities are located; and shall contain eligible costs of not less than one hundred million dollars (\$100,000,000), all of which are utilized to improve the economic and operational situation of an approved company to allow the approved company to reinvest in its operations and retain or create jobs within the Commonwealth; and

(14) "State agency" means any state administrative body, agency, department, or division as defined in KRS 42.010, or any board, commission, institution, or division exercising any function of the state which is not an independent municipal corporation or political subdivision.

Section 222. KRS 154.48-010 is amended to read as follows:

As used in KRS 154.48-010 to 154.48-035, unless the context clearly indicates otherwise:

(1) "Activation date" means a date selected by an approved company in the tax incentive agreement at any time within a two (2) year period after the date of final approval of the tax incentive agreement by the authority;

(2) "Affiliate" means the following:

(a) Members of a family, including only brothers and sisters of the whole or half blood, spouse, ancestors, and lineal descendants of an individual;

(b) An individual, and a corporation more than fifty percent (50%) in value of the outstanding stock of which is owned, directly or indirectly, by or for that individual;

(c) An individual, and a limited liability company of which more than fifty percent (50%) of the capital interest or profits are owned or controlled, directly or indirectly, by or for that individual;

(d) Two (2) corporations which are members of the same controlled group, which includes and is limited to:

1. One (1) or more chains of corporations connected through stock

- 1 ownership with a common parent corporation if:
- 2 a. Stock possessing more than fifty percent (50%) of the total
- 3 combined voting power of all classes of stock entitled to vote or
- 4 more than fifty percent (50%) of the total value of shares of all
- 5 classes of stock of each of the corporations, except the common
- 6 parent corporation, is owned by one (1) or more of the other
- 7 corporations; and
- 8 b. The common parent corporation owns stock possessing more than
- 9 fifty percent (50%) of the total combined voting power of all
- 10 classes of stock entitled to vote or more than fifty percent (50%) of
- 11 the total value of shares of all classes of stock of at least one (1) of
- 12 the other corporations, excluding, in computing the voting power
- 13 or value, stock owned directly by the other corporations; or
- 14 2. Two (2) or more corporations if five (5) or fewer persons who are
- 15 individuals, estates, or trusts own stock possessing more than fifty
- 16 percent (50%) of the total combined voting power of all classes of stock
- 17 entitled to vote or more than fifty percent (50%) of the total value of
- 18 shares of all classes of stock of each corporation, taking into account the
- 19 stock ownership of each person only to the extent the stock ownership is
- 20 identical with respect to each corporation;
- 21 (e) A grantor and a fiduciary of any trust;
- 22 (f) A fiduciary of a trust and a fiduciary of another trust, if the same person is a
- 23 grantor of both trusts;
- 24 (g) A fiduciary of a trust and a beneficiary of that trust;
- 25 (h) A fiduciary of a trust and a beneficiary of another trust, if the same person is a
- 26 grantor of both trusts;
- 27 (i) A fiduciary of a trust and a corporation more than fifty percent (50%) in value

of the outstanding stock of which is owned, directly or indirectly, by or for the trust or by or for a person who is a grantor of the trust;

(j) A fiduciary of a trust and a limited liability company more than fifty percent (50%) of the capital interest, or the interest in profits, of which is owned directly or indirectly, by or for the trust or by or for a person who is a grantor of the trust;

(k) A corporation, ~~and~~ a partnership, or a limited partnership, ~~including a registered limited liability partnership,~~ if the same persons own:

1. More than fifty percent (50%) in value of the outstanding stock of the corporation; and
2. More than fifty percent (50%) of the capital interest, or the profits interest, in the partnership or limited partnership, ~~including a registered limited liability partnership~~;

(l) A corporation and a limited liability company if the same persons own:

1. More than fifty percent (50%) in value of the outstanding stock of the corporation; and
2. More than fifty percent (50%) of the capital interest or the profits in the limited liability company;

(m) A partnership or limited partnership, ~~including a registered limited liability partnership,~~ and a limited liability company if the same persons own:

1. More than fifty percent (50%) of the capital interest or profits in the partnership or limited partnership, ~~including a registered limited liability partnership~~; and
2. More than fifty percent (50%) of the capital interest or the profits in the limited liability company;

(n) An S corporation and another S corporation if the same persons own more than fifty percent (50%) in value of the outstanding stock of each corporation,

- 1 S corporation designation being the same as that designation under the
2 Internal Revenue Code of 1986, as amended; or
- 3 (o) An S corporation and a C corporation, if the same persons own more than fifty
4 percent (50%) in value of the outstanding stock of each corporation; S and C
5 corporation designations being the same as those designations under the
6 Internal Revenue Code of 1986, as amended;
- 7 (3) "Approved company" means any eligible company for which the authority has
8 granted final approval of its application pursuant to KRS 154.48-025;
- 9 (4) "Approved costs" means one hundred percent (100%) of the eligible skills upgrade
10 training costs and up to twenty-five percent (25%) of the eligible equipment costs
11 approved by the authority that an approved company may recover through the
12 inducements authorized by KRS 154.48-010 to 154.48-035;
- 13 (5) "Authority" means the Kentucky Economic Development Finance Authority created
14 by KRS 154.20-010;
- 15 (6) "Average hourly wage" means the wage and employment data published by the
16 Office of Employment and Training Services in the Department for Workforce
17 Investment within the Education Cabinet collectively translated into wages per hour
18 based on a two thousand eighty (2,080) hour work year for the following sectors:
- 19 (a) Manufacturing;
- 20 (b) Transportation, communications, and public utilities;
- 21 (c) Wholesale and retail trade;
- 22 (d) Finance, insurance, and real estate; and
- 23 (e) Services;
- 24 (7) "Commonwealth" means the Commonwealth of Kentucky;
- 25 (8) "Eligible company" means any entity that undertakes an environmental stewardship
26 project;
- 27 (9) "Eligible costs" means eligible equipment costs plus eligible skills upgrade training

1 costs expended after preliminary approval of the environmental stewardship project;

2 (10) "Eligible equipment costs" means:

3 (a) Obligations incurred for labor and to vendors, contractors, subcontractors,
4 builders, suppliers, deliverymen, and materialmen in connection with the
5 acquisition, construction, equipping, and installation of an environmental
6 stewardship project;

7 (b) The cost of contract bonds and of insurance of all kinds that may be required
8 or necessary during the course of acquisition, construction, equipping, and
9 installation of an environmental stewardship project which is not paid by the
10 vendor, supplier, deliveryman, contractor, or otherwise provided;

11 (c) All costs of architectural and engineering services, including estimates, plans
12 and specifications, preliminary investigations, and supervision of construction,
13 rehabilitation and installation, as well as for the performance of all the duties
14 required by or consequent upon the acquisition, construction, equipping, and
15 installation of an environmental stewardship project;

16 (d) All costs required to be paid under the terms of any contract for the
17 acquisition, construction, equipping, and installation of an environmental
18 stewardship project;

19 (e) All costs paid for by the approved company that are required for the
20 installation of utilities, including but not limited to water, sewer, sewer
21 treatment, gas, electricity, communications, and access to transportation, and
22 including off-site construction of the facilities necessary for implementation of
23 an environmental stewardship project; and

24 (f) All other costs of a nature comparable to those described in this subsection.

25 (11) "Eligible skills upgrade training costs" means:

26 (a) Fees or salaries required to be paid to instructors who are employees of the
27 approved company, instructors who are full-time, part-time, or adjunct

1 instructors with an educational institution, and instructors who are consultants
2 on contract with an approved company in connection with an occupational
3 training program sponsored by an approved company for its full-time
4 employees and specifically relating to an environmental stewardship project;

5 (b) Administrative fees charged by educational institutions in connection with an
6 occupational training program sponsored by an approved company for its full-
7 time employees and specifically relating to an environmental stewardship
8 project;

9 (c) The cost of supplies, materials, and equipment used exclusively in an
10 occupational training program sponsored by an approved company for its full-
11 time employees and specifically relating to an environmental stewardship
12 project;

13 (d) The cost of leasing a training facility where space is unavailable at an
14 educational institution or at the premises of an approved company in
15 connection with an occupational training program sponsored by an approved
16 company for its full-time employees and specifically relating to an
17 environmental stewardship project;

18 (e) Employee wages to be paid in connection with an occupational training
19 program sponsored by an approved company for its full-time employees and
20 specifically relating to an environmental stewardship project;

21 (f) Travel expenses paid by the approved company as incurred by its full-time
22 employees resulting directly from the costs of transportation, lodging and
23 meals that are directly related to an occupational training program necessary
24 for the implementation of an environmental stewardship project; and

25 (g) All other costs of a nature comparable to those described in this subsection;

26 (12) "Employee benefits" means nonmandated costs paid by an eligible company for its
27 full-time employees for health insurance, life insurance, dental insurance, vision

1 insurance, defined benefits, 401(k) or similar plans;

2 (13) "Environmental stewardship product" means any new manufactured product or
 3 substantially improved existing manufactured product that has a lesser or reduced
 4 adverse effect on human health and the environment or provides for improvement to
 5 human health and the environment when compared with existing products or
 6 competing products that serve the same purpose. Such products may include, but
 7 are not limited to, those which contain recycled content, minimize waste, conserve
 8 energy or water, and reduce the amount of toxics disposed or consumed, but shall
 9 not include products that are the result of the production of energy or energy
 10 producing fuels;

11 (14) "Environmental stewardship project" or "project" means:

12 (a) The acquisition, construction, and installation of new equipment and, with
 13 respect thereto:

- 14 1. The construction, rehabilitation, and installation of improvements to
- 15 facilities necessary to house the new equipment, including surveys;
- 16 2. Installation of utilities including water, sewer, sewage treatment, gas,
- 17 electricity, communications, and similar facilities;
- 18 3. Off-site construction of utility extensions to the boundaries of the real
- 19 estate on which the facilities are located;

20 All of which are utilized by an approved company or its affiliate to
 21 manufacture an environmental stewardship product as reviewed and
 22 recommended to the authority by the Environmental and Public Protection
 23 Cabinet; and

24 (b) The provision of an occupational training program to provide the employees
 25 of an approved company or its affiliate with the knowledge and skills
 26 necessary to manufacture the new product;

27 (15) "Final approval" means the action taken by the authority designating an eligible

1 company that has previously received a preliminary approval as an approved

2 company and authorizing the execution of an environmental stewardship
3 agreement between the authority and the approved company:

4 (16) "Full-time employee" means a person employed by an approved company for a
5 minimum of thirty-five (35) hours per week and subject to the state income tax
6 imposed by KRS 141.020;

7 (17) "Inducement" means the Kentucky tax credit as authorized by KRS 154.48-010 to
8 154.48-035;

9 (18) "Manufacturing" means any activity involving the manufacturing, processing,
10 assembling, or production of any property, including the processing that results in a
11 change in the condition of the property and any related activity or function, together
12 with the storage, warehousing, distribution, and related office facilities;

13 (19) "Preliminary approval" means the action taken by the authority designating an
14 eligible company as a preliminarily approved company, and conditioning final
15 approval by the authority upon satisfaction by the eligible company of the
16 requirements set forth in the preliminary approval.

17 Section 223. KRS 164.6011 is amended to read as follows:

18 As used in KRS 164.6011 to 164.6041, unless the context indicates otherwise:

19 (1) "Applied research" means those research activities occurring at universities and in
20 private enterprises that have potential commercial application;

21 (2) "Cluster" means a geographically bound concentration of similar, related, or
22 complementary businesses with active channels for business transactions,
23 communications, and dialogue, that share specialized infrastructure, labor markets,
24 and services, and that are faced with common opportunities and threats;

25 (3) "Commission" means the Kentucky Innovation Commission;

26 (4) "Commonwealth" means the Commonwealth of Kentucky;

27 (5) "Council" means the Council on Postsecondary Education;

- 1 (6) "Eligible company" means any corporation, limited liability company, partnership,
 2 limited partnership,~~[registered limited liability partnership,]~~ sole proprietorship,
 3 business trust, person, group, or other entity engaged in nonretail commerce,
 4 agribusiness, trade, or manufacturing;
- 5 (7) "Immediate family members" means:
 6 (a) Spouse and parents-in-law;
 7 (b) Parents and grandparents;
 8 (c) Children and their spouses; and
 9 (d) Siblings and their spouses;
- 10 (8) "Kentucky-based company" means a business with its principal place of business in
 11 Kentucky or no less than fifty percent (50%) of its property and payroll located in
 12 Kentucky;
- 13 (9) "Knowledge-based" means driven by knowledge, innovation, and speed;
- 14 (10) "Medium-size company" means a business with fifty-one (51) to one hundred fifty
 15 (150) employees;
- 16 (11) "Qualified company" means an eligible company that may be granted a funding
 17 voucher or award pending certification;
- 18 (12) "Science and technology organization" means an independent, nonprofit or quasi-
 19 governmental organization, with a statewide mission, that has a demonstrated
 20 history of managing complicated programs in the areas of entrepreneurial
 21 innovation, science, and technology advancement;
- 22 (13) "Seed funding" means financing that is provided for early-stage development,
 23 refinement, and commercialization of a product, process, or innovation through
 24 continuing applied research, advancing the patent process, determining commercial
 25 and market potential, or moving research toward development of a prototype; and
- 26 (14) "Small company" means a firm with fifty (50) or fewer employees.
- 27 Section 224. KRS 171.396 is amended to read as follows:

1 As used in this section and KRS 171.397:

2 (1) "Certified historic structure" means a structure that is located within the
3 Commonwealth of Kentucky and is:

4 (a) Listed individually on the National Register of Historic Places; or

5 (b) Located in a historic district listed on the National Register of Historic Places
6 and is certified by the council as contributing to the historic significance of the
7 district;

8 (2) "Certified rehabilitation" means a completed substantial rehabilitation of a certified
9 historic structure that the council certifies meets the United States Secretary of the
10 Interior's Standards for Rehabilitation;

11 (3) "Certified rehabilitation credit cap" means three million dollars (\$3,000,000);

12 (4) "Council" means the Kentucky Heritage Council;

13 (5) "Disqualifying work" means work that is performed within three (3) years of the
14 completion of the certified rehabilitation that, if performed as part of the
15 rehabilitation certified under this section, would have made the rehabilitation
16 ineligible for certification;

17 (6) "Exempt entity" means any tax exempt organization pursuant to sec. 501(c)(3) of
18 the Internal Revenue Code, any political subdivision of the Commonwealth, any
19 state or local agency, board, or commission, or any quasi-governmental entity;

20 (7) "Local government" means a city, county, urban-county, charter county, or
21 consolidated local government;

22 (8) "Owner-occupied residential property" means a building or portion thereof,
23 condominium, or cooperative occupied by the owner as his principal residence;

24 (9) "Qualified rehabilitation expense" means any amount that is properly chargeable to
25 a capital account, whether or not depreciation is allowed under Section 168 of the
26 Internal Revenue Code, and is expended in connection with the certified substantial
27 rehabilitation of a certified historic structure. It shall include the cost of restoring

landscaping and fencing that contributes to the historic significance of this structure, but shall not include the cost of acquisition of a certified historic structure, enlargement of or additions to an existing building, or the purchase of personal property;

(10) "Substantial rehabilitation" means rehabilitation of a certified historic structure for which the qualified rehabilitation expenses, during a twenty-four (24) month period selected by the taxpayer or exempt entity, ending with or within the taxable year, exceed:

(a) Twenty thousand dollars (\$20,000) for an owner-occupied residential property; or

(b) For all other property, the greater of:

1. The adjusted basis of the structure; or

2. Twenty thousand dollars (\$20,000);

(11) "Taxpayer" means any individual, corporation, limited liability company, business development corporation, partnership, limited partnership, ~~registered limited liability partnership,~~ sole proprietorship, association, joint stock company, receivership, trust, professional service organization, or other legal entity through which business is conducted; and

(12) "Qualified purchased historic home" means any substantially rehabilitated certified historic structure if:

(a) The taxpayer claiming the credit authorized under KRS 171.397 is the first purchaser of the structure after the date of completion of the substantial rehabilitation;

(b) The structure or a portion thereof will be the principal residence of the taxpayer; and

(c) No credit was allowed to the seller under this section.

A qualified purchased historic home shall be deemed owner-occupied residential

property for purposes of this section.

Section 225. KRS 186A.190 is amended to read as follows:

(1) Except as provided in subsection (4) of this section, the perfection and discharge of a security interest in any property for which has been issued a Kentucky certificate of title shall be by notation on the certificate of title. The notation of the security interest on the certificate of title shall be in accordance with this chapter and shall remain effective from the date on which the security interest is noted on the certificate of title for a period of seven (7) years, or, in the case of a manufactured home, for a period of thirty (30) years, or until discharged under this chapter and KRS Chapter 186. The filing of a continuation statement within the six (6) months preceding the expiration of the initial period of a notation's effectiveness extends the expiration date for seven (7) additional years.

(2) Except as provided in subsection (4) of this section, the notation of security interests relating to property required to be titled in Kentucky through the county clerk shall be done in the office of the county clerk of the county in which the debtor resides. If the debtor is other than a natural person, the following provisions govern the determination of the county of the debtor's residence:

(a) A partnership shall be deemed a resident of the county in which its principal place of business in this state is located. If the debtor does not have a place of business in this state, then the debtor shall be deemed a nonresident for purposes of filing in this state;

(b) A limited partnership organized under KRS Chapter 362 or as defined in subsection (14) of Section 81 of this Act shall be deemed a resident of the county in which its principal place of business~~[office]~~ is located, as set forth in its certificate of limited partnership or most recent amendment thereto filed pursuant to KRS Chapter 362 or Section 106 of this Act. If such office is not located in this state, the debtor shall be deemed a nonresident for purposes of

1 filing in this state;

2 (c) A limited partnership not organized under the laws of this state and authorized
3 to do business in this state~~[under KRS Chapter 362]~~ shall be deemed a
4 resident of the county in which the office of its process agent is located, as set
5 forth in the designation or most recent amendment thereto filed with the
6 Secretary of State of the Commonwealth of Kentucky;

7 (d) A corporation organized under KRS Chapter 271B, 273, or 274 or a limited
8 liability company organized under KRS Chapter 275 shall be deemed a
9 resident of the county in which its registered office is located, as set forth in
10 its most recent corporate filing with the Secretary of State which officially
11 designates its current registered office;

12 (e) A corporation not organized under the laws of this state, but authorized to
13 transact or do business in this state under KRS Chapter 271B, 273, or 274, or
14 a limited liability company not organized under the laws of this state, but
15 authorized to transact business in this state under KRS Chapter 275, shall be
16 deemed a resident of the county in which its registered office is located, as set
17 forth in its most recent filing with the Secretary of State which officially
18 designates its current registered office;

19 (f) A cooperative corporation or association organized under KRS Chapter 272
20 shall be deemed a resident of the county in which its principal business is
21 transacted, as set forth in its articles of incorporation or most recent
22 amendment thereto filed with the Secretary of State of the Commonwealth of
23 Kentucky;

24 (g) A cooperative corporation organized under KRS Chapter 279 shall be deemed
25 a resident of the county in which its principal office is located, as set forth in
26 its articles of incorporation or most recent amendment thereto filed with the
27 Secretary of State of the Commonwealth of Kentucky;

(h) A business trust organized under KRS Chapter 386 shall be deemed a resident of the county in which its principal place of business is located, as evidenced by the recordation of its declaration of trust in that county pursuant to KRS Chapter 386;

(i) A credit union organized under KRS Chapter 290 shall be deemed a resident of the county in which its principal place of business is located, as set forth in its articles of incorporation or most recent amendment thereto filed with the Secretary of State of the Commonwealth of Kentucky; and

(j) Any other organization (defined in KRS 355.1-201) shall be deemed a resident of the county in which its principal place of business in this state is located, except that any limited liability company, limited liability partnership, limited partnership, or corporation not organized under the laws of this state and not authorized to transact or do business in this state shall be deemed a nonresident for purposes of filing in this state. If the organization does not have a place of business in this state, then it shall be deemed a nonresident for purposes of filing in this state.

If the debtor does not reside in the Commonwealth, the notation of the security interest shall be done in the office of the county clerk in which the property is principally situated or operated. Notwithstanding the existence of any filed financing statement under the provisions of KRS Chapter 355 relating to any property registered or titled in Kentucky, the sole means of perfecting and discharging a security interest in property for which a certificate of title is required by this chapter is by notation on the property's certificate of title under the provisions of this chapter or in accordance with the provisions of KRS 186.045(3). In other respects the security interest is governed by the provisions of KRS Chapter 355.

(3) Except as provided in subsection (4) of this section, before ownership of property

1 subject to a lien evidenced by notation on the certificate of title may be transferred,
2 the transferor shall obtain the release of the prior liens in his name against the
3 property being transferred. Once a security interest has been noted on the owner's
4 title, a subsequent title shall not be issued by any county clerk free of the notation
5 unless the owner's title is presented to the clerk and it has been noted thereon that
6 the security interest has been discharged. If this requirement is met, information
7 relating to any security interest shown on the title as having been discharged may be
8 omitted from the title to be issued by the clerk. If information relating to the
9 discharge of a security interest is presented to a clerk under the provisions of KRS
10 186.045(3), the clerk shall discharge the security interest and remove the lien
11 information from AVIS.

12 (4) Notwithstanding subsections (1), (2), and (3) of this section, a county clerk shall,
13 following inspection of the vehicle by the sheriff, to determine that the vehicle has
14 not been stolen, issue a new title to a vehicle, clear of all prior liens, to a person
15 after he provides to the county clerk an affidavit devised by the Transportation
16 Cabinet and completed by the person. In the affidavit, the person shall attest that:

- 17 (a) He possesses the vehicle;
- 18 (b) A debt on the vehicle was owed him for more than thirty (30) days before he
19 provided the notices required by paragraphs (c) and (d) of this subsection;
- 20 (c) More than fourteen (14) days before presenting the affidavit to the county
21 clerk, the person attempted to notify the owner of the vehicle and all known
22 lienholders, including those noted on the title, by certified mail, return receipt
23 requested, of his name, address, and telephone number as well as his intention
24 to obtain a new title, clear of all prior liens, unless the owner or a lienholder
25 objected in writing;
- 26 (d) More than fourteen (14) days before presenting the affidavit to the county
27 clerk, the person had published a legal notice stating his intention to obtain

1 title to the vehicle. The legal notice appeared at least twice in a seven (7) day
 2 period in a newspaper published, and with a statewide circulation, in
 3 Kentucky. The legal notice stated:

- 4 1. The person's name, address, and telephone number;
- 5 2. The owner's name;
- 6 3. The names of all known lienholders, including those noted on the title;
- 7 4. The vehicle's make, model, and year; and
- 8 5. The person's intention to obtain title to the vehicle unless the owner or a
 9 lienholder objects in writing within fourteen (14) days after the last
 10 publication of the legal notice; and

11 (e) Neither the owner nor a lienholder has objected in writing to the person's right
 12 to obtain title to the vehicle.

13 (5) No more than two (2) active security interests may be noted upon a certificate of
 14 title.

15 (6) In noting a security interest upon a certificate of title, the county clerk shall ensure
 16 that the certificate of title bears the lienholder's name, mailing address and zip code,
 17 the date the lien was noted, the notation number, and the county in which the
 18 security interest was noted. The clerk shall obtain the information required by this
 19 subsection for notation upon the certificate of title from the title lien statement
 20 described in KRS 186A.195 to be provided to the county clerk by the secured party.

21 (7) For all the costs incurred in the notation and discharge of a security interest on the
 22 certificate of title, the county clerk shall receive the fee prescribed by KRS 64.012.
 23 The fee prescribed by this subsection shall be paid at the time of submittal of the
 24 title lien statement described in KRS 186A.195.

25 (8) A copy of the application, certified by the county clerk, indicating the lien will be
 26 noted on the certificate of title shall be forwarded to the lienholder.

27 Section 226. KRS 271B.4-010 is amended to read as follows:

- 1 (1) A corporate name:
- 2 (a) Shall contain the word "corporation," "incorporated," "company," or "limited,"
- 3 or the abbreviation "corp.," "inc.," "co.," or "ltd.," or words or abbreviations of
- 4 like import in another language; and
- 5 (b) Shall not contain language stating or implying that the corporation is
- 6 organized for a purpose other than that permitted by KRS 271B.3-010 and its
- 7 articles of incorporation.
- 8 (2) Except as authorized by subsections (3) and (4) of this section, a corporate name
- 9 must be distinguishable upon the records of the Secretary of State from:
- 10 (a) The corporate name of a corporation incorporated or authorized to transact
- 11 business in this state;
- 12 (b) A corporate name reserved or registered under KRS 271B.4-020 or 271B.4-
- 13 030;
- 14 (c) The fictitious name adopted by a foreign corporation authorized to transact
- 15 business in this state because its real name is unavailable;
- 16 (d) The corporate name of a not-for-profit corporation incorporated or authorized
- 17 to transact business in this state; and
- 18 (e) A name filed with the Secretary of State under Subchapter 1 of KRS Chapter
- 19 362, Subchapter 2 of KRS Chapter 362, or KRS Chapter~~[362 or]~~ 365.
- 20 (3) A corporation may apply to the Secretary of State for authorization to use a name
- 21 that is not distinguishable upon his records from one (1) or more of the names
- 22 described in subsection (2) of this section. The Secretary of State shall authorize use
- 23 of the name applied for if:
- 24 (a) The other corporation consents to the use in writing and submits an
- 25 undertaking in form satisfactory to the Secretary of State to change its name to
- 26 a name that is distinguishable upon the records of the Secretary of State from
- 27 the name of the applying corporation; or

1 (b) The applicant delivers to the Secretary of State a certified copy of the final
 2 judgment of a court of competent jurisdiction establishing the applicant's right
 3 to use the name applied for in this state.

4 (4) A corporation may use the name (including the fictitious name) of another domestic
 5 or foreign corporation that is used in this state if the other corporation is
 6 incorporated or authorized to transact business in this state and the proposed user
 7 corporation:

8 (a) Has merged with the other corporation;

9 (b) Has been formed by reorganization of the other corporation; or

10 (c) Has acquired all or substantially all of the assets, including the corporate
 11 name, of the other corporation.

12 (5) This chapter does not control the use of fictitious names.

13 (6) The filing of articles of incorporation under the particular corporate name shall not
 14 automatically prevent the use of that name or protect that name from use by other
 15 persons.

16 Section 227. KRS 271B.15-060 is amended to read as follows:

17 (1) If the corporate name of a foreign corporation does not satisfy the requirements of
 18 KRS 271B.4-010, the foreign corporation to obtain or maintain a certificate of
 19 authority to transact business in this state:

20 (a) May add the word "corporation," "incorporated," "company," or "limited," or
 21 the abbreviation "corp.," "inc.," "co.," or "ltd.," to its corporate name for use in
 22 this state; or

23 (b) May use a fictitious name to transact business in this state if its real name is
 24 unavailable and it delivers to the Secretary of State for filing a copy of the
 25 resolution of its board of directors, certified by its secretary, adopting the
 26 fictitious name.

27 (2) Except as authorized by subsections (3) and (4) of this section, the corporate name

- 1 (including a fictitious name) of a foreign corporation shall be distinguishable upon
 2 the records of the Secretary of State from:
- 3 (a) The corporate name of a corporation incorporated or authorized to transact
 4 business in this state;
 - 5 (b) A corporate name reserved or registered under KRS 271B.4-020 or 271B.4-
 6 030;
 - 7 (c) The fictitious name of another foreign corporation authorized to transact
 8 business in this state;
 - 9 (d) The corporate name of a not-for-profit corporation incorporated or authorized
 10 to transact business in this state; or
 - 11 (e) A name filed with the Secretary of State under *Subchapter 1 of KRS Chapter*
 12 *362, Subchapter 2 of KRS Chapter 362, or* KRS Chapter~~[362 or]~~ 365.
- 13 (3) A foreign corporation may apply to the Secretary of State for authorization to use in
 14 this state the name of another corporation (incorporated or authorized to transact
 15 business in this state) that is not distinguishable upon his records from the name
 16 applied for. The Secretary of State shall authorize use of the name applied for if:
- 17 (a) The other corporation consents to the use in writing and submits an
 18 undertaking in form satisfactory to the Secretary of State to change its name to
 19 a name that is distinguishable upon the records of the Secretary of State from
 20 the name of the applying corporation; or
 - 21 (b) The applicant delivers to the Secretary of State a certified copy of a final
 22 judgment of a court of competent jurisdiction establishing the applicant's right
 23 to use the name applied for in this state.
- 24 (4) A foreign corporation may use in this state the name (including the fictitious name)
 25 of another domestic or foreign corporation that is used in this state if the other
 26 corporation is incorporated or authorized to transact business in this state and the
 27 foreign corporation:

- 1 (a) Has merged with the other corporation;
- 2 (b) Has been formed by reorganization of the other corporation; or
- 3 (c) Has acquired all or substantially all of the assets, including the corporate
- 4 name, of the other corporation.

5 (5) If a foreign corporation authorized to transact business in this state changes its
 6 corporate name to one that does not satisfy the requirements of KRS 271B.4-010, it
 7 shall not transact business in this state under the changed name until it adopts a
 8 name satisfying the requirements of KRS 271B.4-010 and obtains an amended
 9 certificate of authority under KRS 271B.15-040.

10 Section 228. KRS 273.177 is amended to read as follows:

11 (1) The corporate name shall include the word "corporation" or "incorporated" or the
 12 abbreviation "Inc.," or the word "company" or the abbreviation "Co."; but if the
 13 word "company" or the abbreviation "Co." is used, it may not be immediately
 14 preceded by the word "and" or the abbreviation "&." The provisions of this
 15 subsection shall not affect the right of any corporation existing on June 13, 1968, to
 16 continue the use of its name.

17 (2) Except as authorized by subsection (3) of this section, a corporate name shall be
 18 distinguishable upon the records of the Secretary of State from:

- 19 (a) The corporate name of a corporation incorporated or authorized to transact
- 20 business in this state;
- 21 (b) A corporate name reserved or registered under KRS 271B.1-300;
- 22 (c) The fictitious name adopted by a foreign corporation authorized to transact
- 23 business in this state because its real name is unavailable;
- 24 (d) The corporate name of a not-for-profit corporation incorporated or authorized
- 25 to transact business in this state; and
- 26 (e) A name filed with the Secretary of State under Subchapter 1 of KRS Chapter
- 27 362, Subchapter 2 of KRS Chapter 362, or KRS Chapter~~[362 or]~~ 365.

1 (3) A corporation may apply to the Secretary of State for authorization to use a name
 2 that is not distinguishable upon his records from one (1) or more of the names
 3 described in subsection (2) of this section. The Secretary of State shall authorize use
 4 of the name applied for if:

5 (a) The other corporation consents to the use in writing and submits an
 6 undertaking in form satisfactory to the Secretary of State to change its name to
 7 a name that is distinguishable upon the records of the Secretary of State from
 8 the name of the applying corporation; or

9 (b) The applicant delivers to the Secretary of State a certified copy of the final
 10 judgment of a court of competent jurisdiction establishing the applicant's right
 11 to use the name applied for in this state.

12 (4) The corporate name shall not contain any word or phrase which indicates or implies
 13 that it is organized for any purpose not permitted under KRS 273.161 to 273.390.

14 (5) This chapter shall not control the use of fictitious names.

15 (6) The filing of articles of incorporation under the particular corporate name shall not
 16 automatically prevent the use of that name or protect that name from use by other
 17 persons.

18 (7) The assumption of a name in violation of this section shall not affect or vitiate the
 19 corporate existence; but the courts of this state having equity jurisdiction may, upon
 20 the application of the state or of any person interested or affected, enjoin such
 21 corporation from doing business under a name assumed in violation of this section,
 22 although a certificate of incorporation may have been issued.

23 Section 229. KRS 273.364 is amended to read as follows:

24 (1) If the corporate name of a foreign corporation does not satisfy the requirements of
 25 KRS 273.177, the foreign corporation, in order to obtain or maintain a certificate of
 26 authority to transact business in this state:

27 (a) May add the word "corporation," "incorporated," "company," or "limited," or

1 the abbreviation "corp.," "inc.," "co.," or "ltd.," to its corporate name for use in
2 this state; or

3 (b) May use a fictitious name to transact business in this state, if its real name is
4 unavailable and it delivers to the Secretary of State for filing a copy of the
5 resolution of its board of directors, certified by its secretary, adopting the
6 fictitious name.

7 (2) Except as authorized by subsection (3) of this section, the corporate name, including
8 a fictitious name, of a foreign corporation shall be distinguishable upon the records
9 of the Secretary of State from:

10 (a) The corporate name of a corporation incorporated or authorized to transact
11 business in this state;

12 (b) A corporate name reserved or registered under KRS 273.178 and 273.179;

13 (c) The fictitious name of another foreign corporation authorized to transact
14 business in this state;

15 (d) The corporate name of a nonprofit corporation incorporated or authorized to
16 transact business in this state; or

17 (e) A name filed with the Secretary of State under Subchapter 1 of KRS Chapter
18 362, Subchapter 2 of KRS Chapter 362, or KRS Chapter~~[362 or]~~ 365.

19 (3) A foreign corporation may apply to the Secretary of State for authorization to use in
20 this state the name of another corporation, incorporated or authorized to transact
21 business in this state, that is not distinguishable upon his records from the name
22 applied for. The Secretary of State shall authorize use of the name applied for if:

23 (a) The other corporation consents to the use in writing and submits an
24 undertaking in form satisfactory to the Secretary of State to change its name to
25 a name that is distinguishable upon the records of the Secretary of State from
26 the name of the applying corporation; or

27 (b) The applicant delivers to the Secretary of State a certified copy of a final

1 judgment of a court of competent jurisdiction establishing the applicant's right
2 to use the name applied for in this state.

3 (4) If a foreign corporation authorized to transact business in this state changes its
4 corporate name to one that does not satisfy the requirements of KRS 273.177, it
5 may not transact business in this state under the changed name until it adopts a
6 name satisfying the requirements of KRS 273.177 and obtains an amended
7 certificate of authority under KRS 273.3611.

8 Section 230. KRS 274.005 is amended to read as follows:

9 As used in this chapter, unless the context indicates otherwise:

10 ~~(1) "Professional service corporation" means a corporation organized under this~~
11 ~~chapter.~~

12 ~~(2)~~ "Foreign professional service corporation" means a corporation for profit organized
13 for the purpose of rendering professional services under a law other than the law of
14 this state;~~[-]~~

15 ~~(2)~~~~(3)~~ "Professional service" means any type of personal service to the public which
16 requires as a condition precedent to the rendering of such service the obtaining of a
17 license or other legal authorization and which, prior to the passage of this chapter
18 and by reason of law or a professional code of ethics, could not be performed by a
19 corporation. The personal services which come within the provisions of this chapter
20 are the personal services rendered by, but not limited to, certified public
21 accountants, public accountants, chiropractors, osteopaths, physicians and surgeons,
22 doctors of medicine, doctors of dentistry, podiatrists, chiropodists, architects,
23 veterinarians, optometrists and attorneys-at-law;~~[-]~~

24 ~~(3)~~~~(4)~~ **"Professional service corporation" means a corporation organized under**
25 **this chapter;**

26 ~~(4)~~ "Qualified person" means a natural person, general partnership, limited liability
27 company,~~[-registered]~~ limited liability partnership, or professional service

1 corporation which is eligible under this chapter to own shares issued by a
 2 professional service corporation; and[-.]

- 3 (5) "Regulating board" means the governmental agency which is charged by law with
 4 the licensing and regulation of the practice of the profession which the professional
 5 service corporation is organized to render.

6 Section 231. KRS 274.017 is amended to read as follows:

- 7 (1) A professional service corporation may issue and a shareholder thereof may transfer
 8 or pledge shares, fractional shares, and rights or options to purchase shares only to:

- 9 (a) Natural persons who are authorized by law in this state or in any other state or
 10 territory of the United States or the District of Columbia to render a
 11 professional service permitted by the articles of incorporation of the
 12 corporation;

- 13 (b) Partnerships~~[General partnerships, including registered limited liability~~
 14 ~~partnerships,]~~ in which all the partners are qualified persons with respect to
 15 such professional corporation and in which at least one (1) partner is
 16 authorized by law in this state to render a professional service permitted by the
 17 articles of incorporation of the corporation;

- 18 (c) A professional limited liability company, domestic or foreign, authorized by
 19 law in this state to render a professional service permitted by the articles of
 20 organization of the limited liability company; and

- 21 (d) Professional service corporations, domestic or foreign, authorized by law in
 22 this state to render a professional service permitted by the articles of
 23 incorporation of the corporation.

- 24 (2) Any issuance or transfer of shares in violation of this section shall be void;
 25 however, nothing herein contained shall prohibit the transfer of shares of a
 26 professional corporation by operation of law or court decree.

27 Section 232. KRS 275.015 is amended to read as follows:

- 1 As used in this chapter, unless the context otherwise requires:
- 2 (1) "Articles of organization" means the articles filed in conformity with the provisions
3 of KRS 275.020 and 275.025, and those articles as amended or restated;~~[-]~~
- 4 (2) "Business entity" means domestic and foreign limited liability companies, general
5 and limited partnerships,~~[- including registered limited liability partnerships,]~~
6 corporations, business trusts, and sole proprietorships;~~[-]~~
- 7 (3) "Corporation" means a profit or nonprofit corporation formed under the laws of any
8 state or a foreign country;~~[-]~~
- 9 (4) "Court" means every court having jurisdiction in the case;~~[-]~~
- 10 (5) "Event of disassociation" means an event that causes a person to cease to be a
11 member as provided in KRS 275.280;~~[-]~~
- 12 (6) "Foreign limited liability company" means an organization that is:
- 13 (a) An unincorporated association;
- 14 (b) Organized under laws of a state other than the laws of this Commonwealth, or
15 under the laws of any foreign country; and
- 16 (c) Organized under a statute pursuant to which an association may be formed
17 that affords to each of its members limited liability with respect to the
18 liabilities of the entity;~~[-]~~
- 19 (7) "Knowledge" means actual knowledge of a fact;~~[-]~~
- 20 (8) "Limited liability company" or "domestic limited liability company" means a
21 limited liability company formed under this chapter having one (1) or more
22 members;~~[-]~~
- 23 (9) "Limited liability company interest" or "interest in the limited liability company"
24 means the interest that may be issued in accordance with KRS 275.195;~~[-]~~
- 25 (10) "Limited partnership" means a limited partnership formed under the laws of the
26 Commonwealth or any other state or a foreign country;~~[-]~~
- 27 (11) "Majority-in-interest of the members" means those members entitled to cast a

1 majority of the votes to be cast by the members on any matter under the terms of the
 2 operating agreement described in KRS 275.175(3);~~[-]~~

3 (12) "Manager" or "managers" means, with respect to a limited liability company that
 4 has set forth in its articles of organization that it is to be managed by managers, the
 5 person or persons designated in accordance with KRS 275.165;~~[-]~~

6 (13) "Member" or "members" means a person or persons who have been admitted to
 7 membership in a limited liability company as provided in KRS 275.275 and who
 8 have not ceased to be members as provided in KRS 275.280;~~[-]~~

9 (14) "Operating agreement" means any agreement, written or oral, among all of the
 10 members, as to the conduct of the business and affairs of a limited liability
 11 company. If a written operating agreement contains a provision to the effect that any
 12 amendment to the operating agreement of the limited liability company shall be in
 13 writing and adopted in accordance with the provisions of the operating agreement,
 14 the provision shall be enforceable in accordance with its terms, and any agreement
 15 as to the conduct of the business and affairs of the limited liability company which
 16 is not in writing and adopted in accordance with the provisions of the operating
 17 agreement shall not be considered part of the operating agreement and shall be void
 18 and unenforceable. If a limited liability company has only one (1) member, an
 19 operating agreement shall be deemed to include:

20 (a) A writing executed by the member that relates to the affairs of the limited
 21 liability company and the conduct of its business regardless of whether the
 22 writing constitutes an agreement; or

23 (b) If the limited liability company is managed by a manager, any other agreement
 24 between the member and the limited liability company as it relates to the
 25 limited liability company and the conduct of its business, regardless of
 26 whether the agreement is in writing;~~[-]~~

27 (15) "Person" means an individual, a~~[-general]~~ partnership,~~[-a limited liability~~

1 ~~partnership, including a registered limited liability partnership, a limited~~
 2 ~~partnership,~~ a domestic or foreign limited liability company, a trust, an estate, an
 3 association, a corporation, or any other legal entity; ~~[-]~~

4 (16) "Principal office" means the office, in or out of the Commonwealth, so designated
 5 in writing with the Secretary of State where the principal executive offices of a
 6 domestic or foreign limited liability company are located; ~~[-]~~

7 ~~(17) "State" means a state, territory, or possession of the United States, the District of~~
 8 ~~Columbia, or the Commonwealth of Puerto Rico.~~

9 ~~(18)~~ "Proceeding" means civil suit and criminal, administrative, and investigative
 10 action; ~~[-]~~

11 ~~(18)~~ (19) "Professional limited liability company" means a limited liability company
 12 organized under this chapter or the laws of another state or foreign country for
 13 purposes that include, but are not limited to, the providing of one (1) or more
 14 professional services. Except as otherwise expressly provided in this chapter, all
 15 provisions of this chapter governing limited liability companies shall be applicable
 16 to professional limited liability companies; ~~[-]~~

17 ~~(19)~~ (20) "Professional services" mean the personal services rendered by physicians,
 18 osteopaths, optometrists, podiatrists, chiropractors, dentists, nurses, pharmacists,
 19 psychologists, occupational therapists, veterinarians, engineers, architects,
 20 landscape architects, certified public accountants, public accountants, physical
 21 therapists, and attorneys; ~~[-]~~

22 ~~(20)~~ (21) "Regulating board" means the governmental agency which is charged by law
 23 with the licensing and regulation of the practice of the profession which the
 24 professional limited liability company is organized to provide; **and**

25 **(21) "State" means a state, territory, or possession of the United States, the District of**
 26 **Columbia, or the Commonwealth of Puerto Rico.**

27 Section 233. KRS 292.310 is amended to read as follows:

1 When used in this chapter, unless the context otherwise requires:

2 (1) "Agent" means any individual other than a broker-dealer who represents a broker-
3 dealer or issuer in effecting or attempting to effect purchases or sales of securities,
4 except as otherwise provided in this chapter.

5 (a) "Agent" does not include an individual who represents:

6 1. An issuer in:

- 7 a. Effecting a transaction in a security exempted by subsection (1),
8 (2), (3), (10), or (11) of KRS 292.400, or subsection (5), (9), or
9 (12) thereof if no commission or other remuneration is received for
10 the sale of such securities or effecting a transaction in a security
11 exempted by KRS 292.400(15) even if commission or other
12 remuneration is received for the sale of such security provided that
13 the individual offers or sells no other security except securities
14 exempted by KRS 292.400(15);
- 15 b. Effecting transactions exempted by KRS 292.410 unless otherwise
16 required;
- 17 c. Effecting transactions in a covered security under Section 18(b)(3)
18 or 18(b)(4)(d) of the Securities Act of 1933 if no commission or
19 other remuneration is paid or given directly or indirectly for
20 soliciting any person in Kentucky;
- 21 d. Effecting transactions with existing employees, partners, or
22 directors of the issuer if no commission or other remuneration is
23 paid or given directly or indirectly for soliciting any person in this
24 state; or
- 25 e. Effecting other transactions if the individual primarily performs, or
26 is intended primarily to perform upon completion of an offering of
27 the issuer's own securities, substantial duties for or on behalf of the

1 issuer otherwise than in connection with transactions in the issuer's
 2 own securities and the individual's compensation is not based, in
 3 whole or in part, upon the amount of purchases or sales of the
 4 issuer's own securities effected for the issuer; or

5 2. A broker-dealer in effecting transactions described in Section 15(h)(2) of
 6 the Securities Exchange Act of 1934.

7 (b) A partner, officer, or director of a broker-dealer or issuer, or a person
 8 occupying a similar status or performing similar functions is an "agent" only if
 9 he otherwise comes within the definition in this subsection;

10 (2) "Broker-dealer" means any person engaged in the business of effecting transactions
 11 in securities for the account of others or for his own account. "Broker-dealer" does
 12 not include:

13 (a) An agent, issuer, bank, savings institution, or trust company;

14 (b) A person that effects transactions in this state exclusively in securities
 15 exempted by KRS 292.400(15); or

16 (c) A person who has no place of business in this state:

17 1. If he effects transactions in this state exclusively with or through the
 18 issuers of the securities involved in the transactions, other broker-
 19 dealers, or banks, savings institutions, trust companies, insurance
 20 companies, investment companies as defined in the Investment
 21 Company Act of 1940, pension or profit-sharing trusts, or other financial
 22 institutions or institutional buyers, whether acting for themselves or as
 23 trustees; or

24 2. If during any period of twelve (12) consecutive months he does not
 25 direct more than fifteen (15) offers to sell or to buy into this state in any
 26 manner to persons other than those specified in this paragraph;

27 (3) "Certified" means, when used in regard to financial statements, examined and

- 1 reported upon in accordance with generally accepted auditing standards with an
 2 opinion expressed by a certified public accountant;
- 3 (4) "Executive director" means the executive director of the Office of Financial
 4 Institutions or any individual employee of the Office of Financial Institutions
 5 expressly designated by order of the executive director to act in the executive
 6 director's place;
- 7 (5) "Covered advisor" means any person who is registered under Section 203 of the
 8 Investment Advisers Act of 1940, 15 U.S.C. sec. 80b-3;
- 9 (6) "Covered security" means any security that is a covered security under Section 18(b)
 10 of the Securities Act of 1933 or rules or regulations promulgated thereunder;
- 11 (7) "Office" means the Office of Financial Institutions of the Commonwealth of
 12 Kentucky;
- 13 (8) "Fraud," "deceit," and "defraud" are not limited to common-law deceit;
- 14 (9) "Guaranteed" means guaranteed as to payment of principal, interest, or dividends;
- 15 (10) "Investment adviser" means any person who, for compensation, engages in the
 16 business of advising others, either directly or through publications or writings, as to
 17 the value of securities or as to the advisability of investing in, purchasing, or selling
 18 securities, or who, for compensation and as a part of a regular business, issues or
 19 promulgates analyses or reports concerning securities. "Investment adviser" does
 20 not include:
- 21 (a) A bank, savings institution, or trust company;
- 22 (b) A lawyer, accountant, engineer, or teacher whose performance of these
 23 services is solely incidental to the practice of his profession;
- 24 (c) A broker-dealer whose performance of these services is solely incidental to
 25 the conduct of his business as a broker-dealer and who receives no special
 26 compensation for them;
- 27 (d) A publisher of any bona fide newspaper, news magazine, or business or

- 1 financial publication of general, regular, and paid circulation;
- 2 (e) A person whose advice, analyses, or reports relate only to securities exempted
- 3 by KRS 292.400(1);
- 4 (f) A person who has no place of business in this state if:
- 5 1. His only clients in this state are other investment advisers, covered
- 6 advisers, broker-dealers, banks, savings institutions, trust companies,
- 7 insurance companies, pension or profit-sharing trusts, or other financial
- 8 institutions or institutional buyers, whether acting for themselves or as
- 9 trustees; or
- 10 2. During any period of twelve (12) consecutive months he does not have
- 11 more than five (5) clients other than those specified in subparagraph 1;
- 12 (g) An investment adviser representative or a person excluded from the definition
- 13 of investment adviser representative;
- 14 (h) A person who is excluded from the definition of investment adviser under
- 15 Section 202(a)(11) of the Investment Advisors Act of 1940;
- 16 (i) A covered adviser; or
- 17 (j) Such other persons not within the intent of this subsection as the executive
- 18 director may by rule or order designate;
- 19 (11) "Investment adviser representative" means:
- 20 (a) With respect to any investment adviser registered or required to be registered
- 21 under this chapter, any partner, officer, director of, or a person occupying a
- 22 similar status or performing similar functions, or other individual employed by
- 23 or associated with an investment adviser, except clerical or ministerial
- 24 personnel, who:
- 25 1. Makes any recommendations or otherwise renders advice regarding
- 26 securities;
- 27 2. Manages accounts or portfolios of clients;

- 1 3. Determines which recommendation or advice regarding securities
- 2 should be given;
- 3 4. Solicits, offers, or negotiates for the sale of or sells investment advisory
- 4 services; or
- 5 5. Supervises employees who perform any of the functions described in
- 6 this paragraph; and
- 7 (b) With respect to any covered adviser, any person defined as an investment
- 8 adviser representative who has a place of business located in Kentucky, as
- 9 those terms are defined in Rule 203A-3 promulgated in accordance with the
- 10 Investment Advisors Act of 1940.
- 11 (12) "Issuer" means any person who issues or proposes to issue any security, except that
- 12 with respect to certificates of deposit, voting trust certificates, or collateral-trust
- 13 certificates, or with respect to certificates of interest or shares in an unincorporated
- 14 investment trust not having a board of directors (or persons performing similar
- 15 functions) or of the fixed, restricted management, or unit type, the term "issuer"
- 16 means the person or persons performing the acts and assuming the duties of
- 17 depositor or manager pursuant to the provisions of the trust or other agreement or
- 18 instrument under which the security is issued, and except that with respect to
- 19 fractional undivided interests in oil, gas, or other mineral rights, the term "issuer"
- 20 means the owner of any such right or of an interest in such right (whether whole or
- 21 fractional) who creates fractional interests therein for the purpose of distribution;
- 22 (13) "Nonissuer" means not directly or indirectly for the benefit of the issuer;
- 23 (14) "Person" means an individual, a limited liability company, a corporation, a
- 24 partnership,~~[a registered limited liability partnership,]~~ a limited partnership, an
- 25 association, a joint-stock company, a trust where the interests of the beneficiaries
- 26 are evidenced by a security, an unincorporated organization, a government, or a
- 27 political subdivision of a government;

- 1 (15) "Rule" or "regulation" means either or both administrative rules or administrative
 2 regulations promulgated by any governmental or other regulatory or self-regulatory
 3 entity, as the context requires;
- 4 (16) "Sale" or "sell" includes every contract of sale of, contract to sell, or disposition of,
 5 a security or interest in a security for value. "Offer" or "offer to sell" includes every
 6 attempt to offer to dispose of, or solicitation of an offer to buy, a security or interest
 7 in a security for value. Any security given or delivered with, or as a bonus on
 8 account of, any purchase of securities or any other thing is considered to constitute
 9 part of the subject of the purchase and to have been offered and sold for value. A
 10 purported gift of assessable stock is considered to involve an offer and sale. Every
 11 sale or offer of a warrant or right to purchase or subscribe to another security of the
 12 same or another issuer, as well as every sale or offer, of a security which gives the
 13 holder a present or future right or privilege to convert into another security of the
 14 same or another issuer, is considered to include an offer of the other security;
- 15 (17) "Securities Act of 1933," "Securities Exchange Act of 1934," "Public Utility
 16 Holding Company Act of 1935," and "Investment Company Act of 1940" mean the
 17 federal statutes of those names as amended before or after January 1, 1961;
- 18 (18) "Security" means any note, stock, treasury stock, bond, debenture, evidence of
 19 indebtedness, certificate of interest or participation in any profit-sharing agreement,
 20 collateral-trust certificate, preorganization certificate or subscription, transferable
 21 share, investment contract, viatical settlement investment, voting-trust certificate,
 22 certificate of deposit for a security, fractional undivided interest in oil, gas, or other
 23 mineral rights; or, in general, any interest or instrument commonly known as a
 24 "security," or any certificate of interest in or participation in, temporary or interim
 25 certificate for, receipt for, guarantee of, or warrant or right to subscribe to or
 26 purchase, any of the foregoing. "Security" does not include any insurance or
 27 endowment policy or annuity contract under which an insurance company promises

1 to pay a fixed number of dollars either in a lump sum or periodically for life or
2 some other specified period;

3 (19) "State" means any state, territory, or possession of the United States, as well as the
4 District of Columbia and Puerto Rico;

5 (20) "Viatical settlement investment" means the contractual right to receive any portion
6 of the death benefit or ownership of a life insurance policy or certificate, for
7 consideration that is less than the expected death benefit of the life insurance policy
8 or certificate. "Viatical settlement investment" does not include:

9 (a) Any transaction between a viator and a viatical settlement provider as defined
10 by KRS 304.15-020 and 304.15-700 to 304.15-720;

11 (b) Any transfer of ownership or beneficial interest in a life insurance policy from
12 a viatical settlement provider to another viatical settlement provider as defined
13 by KRS 304.15-020 and 304.15-700 to 304.15-720 or to any legal entity
14 formed solely for the purpose of holding ownership or beneficial interest in a
15 life insurance policy or policies;

16 (c) The bona fide assignment of a life insurance policy to a bank, savings bank,
17 savings and loan association, credit union, or other licensed lending institution
18 as collateral for a loan; or

19 (d) The exercise of accelerated benefits pursuant to the terms of a life insurance
20 policy issued in accordance with Subtitle 15 of KRS Chapter 304; and

21 (21) Nothing in this section shall be construed to affect the classification of property for
22 ad valorem tax purposes.

23 Section 234. KRS 313.310 is amended to read as follows:

24 (1) No person shall practice dental hygiene nor hold himself out as a dental hygienist
25 without a license issued by the board.

26 (2) A licensed dental hygienist shall practice under the supervision, order, control, and
27 full responsibility of a dentist licensed under this chapter and may practice in a

1 dental office, public or private school, health care facility, or government institution
2 with a dentist on staff except as provided in administrative regulations promulgated
3 pursuant to subsections (3), (4), and (5) of this section.

4 (3) A dental hygienist may provide, for not more than fifteen (15) consecutive full
5 business days, dental hygiene services to a patient when the supervising dentist is
6 not physically present at the location at which the services are provided if all the
7 following requirements are met:

8 (a) The dental hygienist shall have at least two (2) years with a minimum of three
9 thousand (3,000) hours of experience in the practice of dental hygiene;

10 (b) The dental hygienist shall have successfully completed a course approved by
11 the board in the identification and prevention of potential medical
12 emergencies with recertification in this course every two (2) years;

13 (c) The dental hygienist shall comply with written protocols for emergencies the
14 supervising dentist establishes;

15 (d) The board shall promulgate administrative regulations to determine
16 procedures the dental hygienist shall not be allowed to perform while the
17 supervising dentist is absent from the work site; and

18 (e) The dental hygienist shall not examine or provide dental health services to a
19 patient who has not been examined by the supervising dentist within the
20 previous seven (7) months. The supervising dentist shall have completed and
21 evaluated a medical and dental history of the patient and shall have placed a
22 written order for treatment in the patient's file. The board shall promulgate
23 administrative regulations to determine guidelines for the written order.

24 (4) (a) The license for each dental hygienist shall be continuously displayed in a
25 conspicuous place in the office where the licensee practices.

26 (b) The supervising dentist shall evaluate and provide to the board written
27 validation of an employed dental hygienist's skills.

- 1 (c) The supervising dentist shall establish a written office protocol clearly
2 defining all guidelines, including one addressing medically compromised
3 patients, when the treatment by the hygienist is permitted and when the patient
4 needs to be seen exclusively by the dentist. The minimum requirements of the
5 written protocol shall be promulgated in administrative regulations established
6 by the board.
- 7 (d) A patient shall be notified three (3) business days in advance of an
8 appointment for dental hygiene services when the supervising dentist will be
9 absent from the location. The patient shall be required to sign an informed
10 consent form, prior to treatment by the hygienist, acknowledging the dentist's
11 absence.
- 12 (5) The dental hygienist may provide dental hygiene services to a patient when the
13 supervising dentist is not physically present at the location at which the services are
14 provided if the services are provided as part of a dental health program that is
15 approved by the board and meets all of the following requirements:
- 16 (a) The program is operated through a school district board of education or the
17 governing board of an educational service center; the board of health of a city
18 or general health district or the authority having the duties of a board of health
19 under KRS 212.245; a national, state, district, or local dental association; or
20 any other public or private entity recognized by the board;
- 21 (b) The supervising dentist is employed by or is a volunteer for the entity through
22 which the program is operated and through which the patients are referred;
23 and
- 24 (c) The services are performed after examination and diagnosis by the dentist and
25 in accordance with the dentist's written treatment plan.
- 26 (6) A dental hygienist may be employed by the supervising dentist or under contract
27 with a dentist licensed under this chapter who is one (1) of the following:

- 1 (a) The employer of the supervising dentist;
- 2 (b) A shareholder in a professional association formed under KRS 274.015 of
- 3 which the supervising dentist is a shareholder;
- 4 (c) A member or manager of a limited liability company formed under KRS
- 5 275.005 of which the supervising dentist is a member or manager;
- 6 (d) A shareholder in a corporation formed under KRS Chapter 271B of which the
- 7 supervising dentist is a shareholder;
- 8 (e) A partner or employee of a partnership~~[or a registered limited liability~~
- 9 ~~partnership formed under KRS 362.555]~~ of which the supervising dentist is a
- 10 partner or employee; or
- 11 (f) A government entity that employs the dental hygienist to provide dental
- 12 hygiene services in a public school in connection with other programs the
- 13 government entity administers.
- 14 (7) It shall be unlawful for a person or corporation to practice dental hygiene in a
- 15 manner that is separate or independent from the dental practice of a supervising
- 16 dentist or to establish or maintain an office or practice that is primarily devoted to
- 17 the provision of dental hygiene services.
- 18 (8) For purposes of determining whether or not a dental hygienist has met the
- 19 experience requirements specified in subsection (3)(a) of this section, all experience
- 20 that the dental hygienist obtained prior to July 15, 2002, shall be counted.

21 Section 235. KRS 342.0011 is amended to read as follows:

22 As used in this chapter, unless the context otherwise requires:

- 23 (1) "Injury" means any work-related traumatic event or series of traumatic events,
- 24 including cumulative trauma, arising out of and in the course of employment which
- 25 is the proximate cause producing a harmful change in the human organism
- 26 evidenced by objective medical findings. "Injury" does not include the effects of the
- 27 natural aging process, and does not include any communicable disease unless the

1 risk of contracting the disease is increased by the nature of the employment.
2 "Injury" when used generally, unless the context indicates otherwise, shall include
3 an occupational disease and damage to a prosthetic appliance, but shall not include
4 a psychological, psychiatric, or stress-related change in the human organism, unless
5 it is a direct result of a physical injury.

6 (2) "Occupational disease" means a disease arising out of and in the course of the
7 employment.

8 (3) An occupational disease as defined in this chapter shall be deemed to arise out of
9 the employment if there is apparent to the rational mind, upon consideration of all
10 the circumstances, a causal connection between the conditions under which the
11 work is performed and the occupational disease, and which can be seen to have
12 followed as a natural incident to the work as a result of the exposure occasioned by
13 the nature of the employment and which can be fairly traced to the employment as
14 the proximate cause. The occupational disease shall be incidental to the character of
15 the business and not independent of the relationship of employer and employee. An
16 occupational disease need not have been foreseen or expected but, after its
17 contraction, it must appear to be related to a risk connected with the employment
18 and to have flowed from that source as a rational consequence.

19 (4) "Injurious exposure" shall mean that exposure to occupational hazard which would,
20 independently of any other cause whatsoever, produce or cause the disease for
21 which the claim is made.

22 (5) "Death" means death resulting from an injury or occupational disease.

23 (6) "Carrier" means any insurer, or legal representative thereof, authorized to insure the
24 liability of employers under this chapter and includes a self-insurer.

25 (7) "Self-insurer" is an employer who has been authorized under the provisions of this
26 chapter to carry his own liability on his employees covered by this chapter.

27 (8) "Office" means the Office of Workers' Claims in the Department of Labor.

- 1 (9) "Executive director" means the executive director of the Office of Workers' Claims.
- 2 (10) "Board" means the Workers' Compensation Board.
- 3 (11) (a) "Temporary total disability" means the condition of an employee who has not
 4 reached maximum medical improvement from an injury and has not reached a
 5 level of improvement that would permit a return to employment;
- 6 (b) "Permanent partial disability" means the condition of an employee who, due to
 7 an injury, has a permanent disability rating but retains the ability to work; and
- 8 (c) "Permanent total disability" means the condition of an employee who, due to
 9 an injury, has a permanent disability rating and has a complete and permanent
 10 inability to perform any type of work as a result of an injury, except that total
 11 disability shall be irrebuttably presumed to exist for an injury that results in:
- 12 1. Total and permanent loss of sight in both eyes;
 - 13 2. Loss of both feet at or above the ankle;
 - 14 3. Loss of both hands at or above the wrist;
 - 15 4. Loss of one (1) foot at or above the ankle and the loss of one (1) hand at
 16 or above the wrist;
 - 17 5. Permanent and complete paralysis of both arms, both legs, or one (1)
 18 arm and one (1) leg;
 - 19 6. Incurable insanity or imbecility; or
 - 20 7. Total loss of hearing.
- 21 (12) "Income benefits" means payments made under the provisions of this chapter to the
 22 disabled worker or his dependents in case of death, excluding medical and related
 23 benefits.
- 24 (13) "Medical and related benefits" means payments made for medical, hospital, burial,
 25 and other services as provided in this chapter, other than income benefits.
- 26 (14) "Compensation" means all payments made under the provisions of this chapter
 27 representing the sum of income benefits and medical and related benefits.

- 1 (15) "Medical services" means medical, surgical, dental, hospital, nursing, and medical
2 rehabilitation services, medicines, and fittings for artificial or prosthetic devices.
- 3 (16) "Person" means any individual, partnership,~~including a registered limited liability~~
4 ~~partnership,~~ limited partnership, limited liability company, firm, association, trust,
5 joint venture, corporation,~~limited liability company,~~ or legal representative
6 thereof.
- 7 (17) "Wages" means, in addition to money payments for services rendered, the
8 reasonable value of board, rent, housing, lodging, fuel, or similar advantages
9 received from the employer, and gratuities received in the course of employment
10 from persons other than the employer as evidenced by the employee's federal and
11 state tax returns.
- 12 (18) "Agriculture" means the operation of farm premises, including the planting,
13 cultivation, producing, growing, harvesting, and preparation for market of
14 agricultural or horticultural commodities thereon, the raising of livestock for food
15 products and for racing purposes, and poultry thereon, and any work performed as
16 an incident to or in conjunction with the farm operations. It shall not include the
17 commercial processing, packing, drying, storing, or canning of such commodities
18 for market, or making cheese or butter or other dairy products for market.
- 19 (19) "Beneficiary" means any person who is entitled to income benefits or medical and
20 related benefits under this chapter.
- 21 (20) "United States," when used in a geographic sense, means the several states, the
22 District of Columbia, the Commonwealth of Puerto Rico, the Canal Zone, and the
23 territories of the United States.
- 24 (21) "Alien" means a person who is not a citizen, a national, or a resident of the United
25 States or Canada. Any person not a citizen or national of the United States who
26 relinquishes or is about to relinquish his residence in the United States shall be
27 regarded as an alien.

(22) "Insurance carrier" means every insurance carrier or insurance company authorized to do business in the Commonwealth writing workers' compensation insurance coverage and includes the Kentucky Employers Mutual Insurance Authority and every self-insured group operating under the provisions of this chapter.

(23) (a) "Severance or processing of coal" means all activities performed in the Commonwealth at underground, auger, and surface mining sites; all activities performed at tipple or processing plants that clean, break, size, or treat coal; and all activities performed at coal loading facilities for trucks, railroads, and barges. Severance or processing of coal shall not include acts performed by a final consumer if the acts are performed at the site of final consumption.

(b) "Engaged in severance or processing of coal" shall include all individuals, partnerships,~~[including registered limited liability partnerships,]~~ limited partnerships, limited liability companies, corporations, joint ventures, associations, or any other business entity in the Commonwealth which has employees on its payroll who perform any of the acts stated in paragraph (a) of this subsection, regardless of whether the acts are performed as owner of the coal or on a contract or fee basis for the actual owner of the coal. A business entity engaged in the severance or processing of coal, including, but not limited to, administrative or selling functions, shall be considered wholly engaged in the severance or processing of coal for the purpose of this chapter. However, a business entity which is engaged in a separate business activity not related to coal, for which a separate premium charge is not made, shall be deemed to be engaged in the severance or processing of coal only to the extent that the number of employees engaged in the severance or processing of coal bears to the total number of employees. Any employee who is involved in the business of severing or processing of coal and business activities not related to coal shall be prorated based on the time involved in severance or processing

1 of coal bears to his total time.

2 (24) "Premium" for every self-insured group means any and all assessments levied on its
3 members by such group or contributed to it by the members thereof. For special
4 fund assessment purposes, "premium" also includes any and all membership dues,
5 fees, or other payments by members of the group to associations or other entities
6 used for underwriting, claims handling, loss control, premium audit, actuarial, or
7 other services associated with the maintenance or operation of the self-insurance
8 group.

9 (25) (a) "Premiums received" for policies effective on or after January 1, 1994, for
10 insurance companies means direct written premiums as reported in the annual
11 statement to the Office of Insurance by insurance companies, except that
12 "premiums received" includes premiums charged off or deferred, and, on
13 insurance policies or other evidence of coverage with provisions for
14 deductibles, the calculated cost for coverage, including experience
15 modification and premium surcharge or discount, prior to any reduction for
16 deductibles. The rates, factors, and methods used to calculate the cost for
17 coverage under this paragraph for insurance policies or other evidence of
18 coverage with provisions for deductibles shall be the same rates, factors, and
19 methods normally used by the insurance company in Kentucky to calculate the
20 cost for coverage for insurance policies or other evidence of coverage without
21 provisions for deductibles, except that, for insurance policies or other
22 evidence of coverage with provisions for deductibles effective on or after
23 January 1, 1995, the calculated cost for coverage shall not include any
24 schedule rating modification, debits, or credits. The cost for coverage
25 calculated under this paragraph by insurance companies that issue only
26 deductible insurance policies in Kentucky shall be actuarially adequate to
27 cover the entire liability of the employer for compensation under this chapter,

1 including all expenses and allowances normally used to calculate the cost for
2 coverage. For policies with provisions for deductibles with effective dates of
3 May 6, 1993, through December 31, 1993, for which the insurance company
4 did not report premiums and remit special fund assessments based on the
5 calculated cost for coverage prior to the reduction for deductibles, "premiums
6 received" includes the initial premium plus any reimbursements invoiced for
7 losses, expenses, and fees charged under the deductibles. The special fund
8 assessment rates in effect for reimbursements invoiced for losses, expenses, or
9 fees charged under the deductibles shall be those percentages in effect on the
10 effective date of the insurance policy. For policies covering leased employees
11 as defined in KRS 342.615, "premiums received" means premiums calculated
12 using the experience modification factor of each lessee as defined in KRS
13 342.615 for each leased employee for that portion of the payroll pertaining to
14 the leased employee.

15 (b) "Direct written premium" for insurance companies means the gross premium
16 written less return premiums and premiums on policies not taken but
17 including policy and membership fees.

18 (c) "Premium," for policies effective on or after January 1, 1994, for insurance
19 companies means all consideration, whether designated as premium or
20 otherwise, for workers' compensation insurance paid to an insurance company
21 or its representative, including, on insurance policies with provisions for
22 deductibles, the calculated cost for coverage, including experience
23 modification and premium surcharge or discount, prior to any reduction for
24 deductibles. The rates, factors, and methods used to calculate the cost for
25 coverage under this paragraph for insurance policies or other evidence of
26 coverage with provisions for deductibles shall be the same rates, factors, and
27 methods normally used by the insurance company in Kentucky to calculate the

1 cost for coverage for insurance policies or other evidence of coverage without
2 provisions for deductibles, except that, for insurance policies or other
3 evidence of coverage with provisions for deductibles effective on or after
4 January 1, 1995, the calculated cost for coverage shall not include any
5 schedule rating modifications, debits, or credits. The cost for coverage
6 calculated under this paragraph by insurance companies that issue only
7 deductible insurance policies in Kentucky shall be actuarially adequate to
8 cover the entire liability of the employer for compensation under this chapter,
9 including all expenses and allowances normally used to calculate the cost for
10 coverage. For policies with provisions for deductibles with effective dates of
11 May 6, 1993, through December 31, 1993, for which the insurance company
12 did not report premiums and remit special fund assessments based on the
13 calculated cost for coverage prior to the reduction for deductibles, "premium"
14 includes the initial consideration plus any reimbursements invoiced for losses,
15 expenses, or fees charged under the deductibles.

16 (d) "Return premiums" for insurance companies means amounts returned to
17 insureds due to endorsements, retrospective adjustments, cancellations,
18 dividends, or errors.

19 (26) "Insurance policy" for an insurance company or self-insured group means the term
20 of insurance coverage commencing from the date coverage is extended, whether a
21 new policy or a renewal, through its expiration, not to exceed the anniversary date
22 of the renewal for the following year.

23 (27) "Self-insurance year" for a self-insured group means the annual period of
24 certification of the group created pursuant to KRS 342.350(4) and 304.50-010.

25 (28) "Premium" for each employer carrying his own risk pursuant to KRS 342.340(1)
26 shall be the projected value of the employer's workers' compensation claims for the
27 next calendar year as calculated by the executive director using generally-accepted

1 actuarial methods as follows:

- 2 (a) The base period shall be the earliest three (3) calendar years of the five (5)
3 calendar years immediately preceding the calendar year for which the
4 calculation is made. The executive director shall identify each claim of the
5 employer which has an injury date or date of last injurious exposure to the
6 cause of an occupational disease during each one (1) of the three (3) calendar
7 years to be used as the base, and shall assign a value to each claim. The value
8 shall be the total of the indemnity benefits paid to date and projected to be
9 paid, adjusted to current benefit levels, plus the medical benefits paid to date
10 and projected to be paid for the life of the claim, plus the cost of medical and
11 vocational rehabilitation paid to date and projected to be paid. Adjustment to
12 current benefit levels shall be done by multiplying the weekly indemnity
13 benefit for each claim by the number obtained by dividing the statewide
14 average weekly wage which will be in effect for the year for which the
15 premium is being calculated by the statewide average weekly wage in effect
16 during the year in which the injury or date of the last exposure occurred. The
17 total value of the claims using the adjusted weekly benefit shall then be
18 calculated by the executive director. Values for claims in which awards have
19 been made or settlements reached because of findings of permanent partial or
20 permanent total disability shall be calculated using the mortality and interest
21 discount assumptions used in the latest available statistical plan of the
22 advisory rating organization defined in Subtitle 13 of KRS Chapter 304. The
23 sum of all calculated values shall be computed for all claims in the base
24 period.
- 25 (b) The executive director shall obtain the annual payroll for each of the three (3)
26 years in the base period for each employer carrying his own risk from records
27 of the office and from the records of the Department for Employment

1 Services, Cabinet for Workforce Development. The executive director shall
2 multiply each of the three (3) years of payroll by the number obtained by
3 dividing the statewide average weekly wage which will be in effect for the
4 year in which the premium is being calculated by the statewide average
5 weekly wage in effect in each of the years of the base period.

6 (c) The executive director shall divide the total of the adjusted claim values for
7 the three (3) year base period by the total adjusted payroll for the same three
8 (3) year period. The value so calculated shall be multiplied by 1.25 and shall
9 then be multiplied by the employer's most recent annualized payroll,
10 calculated using records of the office and the Department for Employment
11 Services data which shall be made available for this purpose on a quarterly
12 basis as reported, to obtain the premium for the next calendar year for
13 assessment purposes under KRS 342.122.

14 (d) For November 1, 1987, through December 31, 1988, premium for each
15 employer carrying his own risk shall be an amount calculated by the board
16 pursuant to the provisions contained in this subsection and such premium
17 shall be provided to each employer carrying his own risk and to the funding
18 commission on or before January 1, 1988. Thereafter, the calculations set
19 forth in this subsection shall be performed annually, at the time each employer
20 applies or renews his application for certification to carry his own risk for the
21 next twelve (12) month period and submits payroll and other data in support
22 of the application. The employer and the funding commission shall be notified
23 at the time of the certification or recertification of the premium calculated by
24 the executive director, which shall form the employer's basis for assessments
25 pursuant to KRS 342.122 for the calendar year beginning on January 1
26 following the date of certification or recertification.

27 (e) If an employer having fewer than five (5) years of doing business in this state

1 applies to carry his own risk and is so certified, his premium for the purposes
 2 of KRS 342.122 shall be based on the lesser number of years of experience as
 3 may be available including the two (2) most recent years if necessary to create
 4 a three (3) year base period. If the employer has less than two (2) years of
 5 operation in this state available for the premium calculation, then his premium
 6 shall be the greater of the value obtained by the calculation called for in this
 7 subsection or the amount of security required by the executive director
 8 pursuant to KRS 342.340(1).

9 (f) If an employer is certified to carry his own risk after having previously insured
 10 the risk, his premium shall be calculated using values obtained from claims
 11 incurred while insured for as many of the years of the base period as may be
 12 necessary to create a full three (3) year base. After the employer is certified to
 13 carry his own risk and has paid all amounts due for assessments upon
 14 premiums paid while insured, he shall be assessed only upon the premium
 15 calculated under this subsection.

16 (g) "Premium" for each employer defined in KRS 342.630(2) shall be calculated
 17 as set forth in this subsection.

18 (h) Notwithstanding any other provision of this subsection, the premium of any
 19 employer authorized to carry its own risk for purposes of assessments due
 20 under this chapter shall be no less than thirty cents (\$0.30) per one hundred
 21 dollars (\$100) of the employer's most recent annualized payroll for employees
 22 covered by this chapter.

23 (29) "SIC code" as used in this chapter means the Standard Industrial Classification
 24 Code contained in the latest edition of the Standard Industrial Classification Manual
 25 published by the Federal Office of Management and Budget.

26 (30) "Investment interest" means any pecuniary or beneficial interest in a provider of
 27 medical services or treatment under this chapter, other than a provider in which that

pecuniary or investment interest is obtained on terms equally available to the public through trading on a registered national securities exchange, such as the New York Stock Exchange or the American Stock Exchange, or on the National Association of Securities Dealers Automated Quotation System.

(31) "Managed health care system" means a health care system that employs gatekeeper providers, performs utilization review, and does medical bill audits.

(32) "Physician" means physicians and surgeons, psychologists, optometrists, dentists, podiatrists, and osteopathic and chiropractic practitioners acting within the scope of their license issued by the Commonwealth.

(33) "Objective medical findings" means information gained through direct observation and testing of the patient applying objective or standardized methods.

(34) "Work" means providing services to another in return for remuneration on a regular and sustained basis in a competitive economy.

(35) "Permanent impairment rating" means percentage of whole body impairment caused by the injury or occupational disease as determined by "Guides to the Evaluation of Permanent Impairment," American Medical Association, latest available edition.

(36) "Permanent disability rating" means the permanent impairment rating selected by an administrative law judge times the factor set forth in the table that appears at KRS 342.730(1)(b).

Section 236. KRS 365.015 is amended to read as follows:

(1) (a) The real name of an individual shall include his or her surname at birth, or his or her name as changed by a court of competent jurisdiction, or the surname of a married woman.[-; }

(b) The real name of a domestic:

1. General partnership ***that is not a limited liability partnership and that has not filed a statement of partnership authority*** is that name which includes the real name of each of the partners;

1 2. General partnership that is not a limited liability partnership and that
 2 has filed a statement of partnership authority is the name set forth on
 3 the statement of partnership authority;

4 3. General partnership that is a limited liability partnership is the name
 5 stated on the statement of qualification filed pursuant to Section 69 of
 6 this Act or predecessor law;

7 4. Limited partnership is that name stated in its certificate of limited
 8 partnership filed pursuant to Section 105 of this Act or predecessor
 9 law;

10 5. ~~[the real name of a registered limited liability partnership is the name~~
 11 ~~stated in its statement of registered limited liability partnership filed~~
 12 ~~under KRS Chapter 362; the real name of a domestic limited partnership~~
 13 ~~is that name stated in its certificate of limited partnership filed pursuant~~
 14 ~~to KRS Chapter 362; the real name of a domestic]~~Business trust is the
 15 name set forth in the declaration of trust;

16 6. ~~[the real name of a domestic]~~Corporation is the name set forth in its
 17 articles of incorporation; and

18 7. ~~[the real name of a domestic]~~Limited liability company is the name set
 19 forth in its articles of organization.

20 (c) The real name of a foreign:

21 1. General partnership is the name recognized by the laws of the
 22 jurisdiction under which it is formed as being the real name;

23 2. Limited liability partnership is the name stated in its statement of
 24 foreign qualification filed pursuant to Section 72 of this Act or
 25 predecessor law;

26 3. Limited partnership is the name set forth in its certificate of limited
 27 partnership or the fictitious name adopted for use in this

Commonwealth under Section 165 of this Act or predecessor law;

4. ~~[, including a foreign registered limited liability partnership, or limited partnership and of a foreign]~~Business trust is the name recognized by the laws of the **jurisdiction**~~[foreign state]~~ under which it is formed as being the real name **of the business trust;**

5. ~~[or the fictitious name adopted for use in this state; the real name of a foreign registered limited liability partnership is the name stated in its statement of foreign registered limited liability partnership filed under KRS Chapter 362; the real name of a foreign]~~Corporation is the name set forth in its articles of incorporation or the fictitious name adopted for use in this **Commonwealth**~~[state]~~ under KRS 271B.15-060; and

6. ~~[the real name of a foreign]~~Limited liability company is the name set forth in its articles of organization or the fictitious name adopted for use in this **Commonwealth**~~[state]~~ under KRS 275.410.

(2) (a) No individual, general partnership,~~[including a registered limited liability partnership,]~~ limited partnership, business trust, corporation, or limited liability company shall conduct or transact business in this **Commonwealth**~~[state]~~ under an assumed name or any style other than his or its real name, as defined in subsection (1) of this section, unless such individual, partnership, limited partnership, business trust, corporation, or limited liability company has filed a certificate of assumed name;

(b) The certificate shall state the assumed name under which the business will be conducted or transacted, the real name of the individual, partnership, limited partnership, business trust, corporation, or limited liability company and his or its address, including street and number, if any;

(c) A separate certificate shall be filed for each assumed name;

(d) No certificate to be filed with the Secretary of State shall set forth an assumed

1 name which is not distinguishable upon the records of the Secretary of State
 2 from any other name previously filed and on record with the Secretary of
 3 State;

4 (e) The certificate shall be executed for an individual, by the individual; for a
 5 general partnership,~~[including a registered limited liability partnership,]~~ by at
 6 least one (1) partner authorized to do so by the partners; for a limited
 7 partnership, by a general partner; for a business trust, by a trustee~~[the~~
 8 ~~trustees]~~; for a corporation, by any person authorized to act for the
 9 corporation; and for a limited liability company, by a member or manager
 10 authorized to act for the limited liability company.

11 (3) **Each**~~[The]~~ certificate of assumed name for an individual shall be filed with the
 12 county clerk where the person ***maintains his or her principal place of business***~~[is~~
 13 ~~deemed a resident under the provisions of KRS 186A.190(2)(a) to (j)]~~. **Each**~~[The]~~
 14 certificate of assumed name for a general partnership,~~[including a registered~~
 15 ~~limited liability partnership,]~~ limited partnership, business trust, corporation, or
 16 limited liability company shall be delivered to the Secretary of State for filing,
 17 accompanied by one (1) exact or conformed copy. One (1) of the exact or
 18 conformed copies stamped as "filed" by the Secretary of State shall be filed with the
 19 county clerk of the county where the entity ***maintains its registered agent for***
 20 ***service of process or, if no registered agent for service of process is required, then***
 21 ***with the county clerk of the county where the entity maintains its principal***
 22 ***office***~~[is deemed a resident under the provisions of KRS 186A.190(2)(a) to (j)]~~. If
 23 the entity ***does not maintain a registered agent for service of process and does not***
 24 ***maintain a principal office in this Commonwealth, then the certificate of***
 25 ***assumed name shall be filed***~~[is not deemed a resident of a county in the~~
 26 ~~Commonwealth, the entity shall file]~~ only with the Secretary of State.

27 (4) An assumed name shall be effective for a term of five (5) years from the date of

1 filing~~[registration]~~ and may be renewed for successive terms upon filing a renewal
 2 certificate within six (6) months prior to the expiration of the term, in the same
 3 manner of filing the original certificate as set out in subsection (3) of this section.
 4 Any certificate in effect on July 15, 1998, shall continue in effect for five (5) years
 5 and may be renewed by filing a renewal certificate with the Secretary of State.

6 (5) Upon discontinuing the use of an assumed name, the certificate shall be withdrawn
 7 by filing a certificate in the office wherein the original certificate of assumed name
 8 was filed. The certificate of withdrawal shall state the assumed name, the real name
 9 and address of the party formerly transacting business under the assumed name
 10 and the date upon which the original certificate was filed. The certificate of
 11 withdrawal shall be signed for a general partnership~~[, including a registered limited~~
 12 ~~liability partnership,]~~ by at least one (1) partner authorized to act for the
 13 partnership~~[do so by the partners]~~, for a limited partnership by a general partner,
 14 for a business trust by a trustee~~[the trustees]~~, for a corporation by any person
 15 authorized to act for the corporation, and for a limited liability company by a
 16 member or manager authorized to act for the limited liability company.

17 (6) A general partnership, except a limited liability partnership, shall amend an
 18 assumed name to reflect a change in the identity of partners. The amendment shall
 19 set forth:

- 20 (a) The assumed name and date of original filing;
- 21 (b) A statement setting out the changes in identity of the partners; and
- 22 (c) Shall be signed by at least one (1) partner authorized to do so by the partners.

23 (7) The filing of a certificate of assumed name shall not automatically prevent the
 24 use of that name or protect that name from use by other persons.

25 (8) In the event of the merger or conversion of a partnership, limited partnership,
 26 business trust, corporation, or limited liability company, any certificate of
 27 assumed name filed by a party to a merger or conversion shall remain in full

force and effect, as provided in subsection (4) of this section, as if originally filed by the business organization which survives the merger of conversion.

(9) A certificate of assumed name may be amended to revise the real name or the address of the person or business organization holding the certificate of assumed name.

(10) A certificate of assumed name, or its amendment or cancellation, shall be effective on the date it is filed, as evidenced by the Secretary of State's date and time endorsement on the original document, or at a time specified in the document as its effective time on the date it is filed. The document may specify a delayed effective time and date, and if it does so, the document shall become effective at the time and date specified. If a delayed effective date but no time is specified, the document shall be effective at the close of business on that date. A delayed effective date for a document shall not be later than the ninetieth day after the date it is filed.

(11) The county clerk shall receive a fee pursuant to KRS 64.012 for filing each certificate, and the Secretary of State shall receive a fee of twenty dollars (\$20) for filing each certificate, amendment, and renewal certificate.

Section 237. KRS 446.010 is amended to read as follows:

As used in the statute laws of this state, unless the context requires otherwise:

- (1) "Action" includes all proceedings in any court of this state;
- (2) "Animal" includes every warm-blooded living creature except a human being;
- (3) "Attorney" means attorney-at-law;
- (4) "Bequeath" and "devise" mean the same thing;
- (5) "Bequest" and "legacy" mean the same thing, and embrace either real or personal estate, or both;
- (6) "Cattle" includes horse, mule, ass, cow, ox, sheep, hog, or goat of any age or sex;
- (7) "Company" may extend and be applied to any corporation, company, person,

- 1 partnership, joint stock company, or association;
- 2 (8) "Corporation" may extend and be applied to any corporation, company, partnership,
3 joint stock company, or association;
- 4 (9) "Cruelty" as applied to animals includes every act or omission whereby unjustifiable
5 physical pain, suffering, or death is caused or permitted;
- 6 (10) "Directors," when applied to corporations, includes managers or trustees;
- 7 (11) "Domestic," when applied to corporations, **partnerships, limited partnerships, or**
8 **limited liability companies,** means all those incorporated or formed by authority of
9 this state;
- 10 (12) "Domestic animal" means any animal converted to domestic habitat;
- 11 (13) "Federal" refers to the United States;
- 12 (14) "Foreign," when applied to corporations, **partnerships, limited partnerships, or**
13 **limited liability companies,** includes all those incorporated or formed by authority
14 of any other state;
- 15 (15) "Generally accepted accounting principles" are those uniform minimum standards
16 of and guidelines to financial accounting and reporting as adopted by the National
17 Council on Governmental Accounting, under the auspices of the Municipal Finance
18 Officers Association and by the Financial Accounting Standards Board, under the
19 auspices of the American Institute of Certified Public Accountants;
- 20 (16) "Humane society," "society," or "Society for the Prevention of Cruelty to Animals,"
21 means any nonprofit corporation, organized under the laws of this state and having
22 as its primary purpose the prevention of cruelty to animals;
- 23 (17) "Issue," as applied to the descent of real estate, includes all the lawful lineal
24 descendants of the ancestors;
- 25 (18) "Land" or "real estate" includes lands, tenements, and hereditaments and all rights
26 thereto and interest therein, other than a chattel interest;
- 27 (19) "Legatee" and "devisee" convey the same idea;

- 1 (20) "May" is permissive;
- 2 (21) "Month" means calendar month;
- 3 (22) "Oath" includes "affirmation" in all cases in which an affirmation may be
4 substituted for an oath;
- 5 (23) "Owner" when applied to any animal, means any person having a property interest
6 in such animal;
- 7 **(24) "Partnership" includes both general and limited partnerships;**
- 8 **(25)** "Peace officer" includes sheriffs, constables, coroners, jailers, metropolitan and
9 urban-county government correctional officers, marshals, policemen, and other
10 persons with similar authority to make arrests;
- 11 **(26)**~~[(25)]~~ "Penitentiary" includes all of the state penal institutions except the houses of
12 reform;
- 13 **(27)**~~[(26)]~~ "Person" may extend and be applied to bodies-politic and corporate, societies,
14 communities, the public generally, individuals, partnerships, registered limited
15 liability partnerships, joint stock companies, and limited liability companies;
- 16 **(28)**~~[(27)]~~ "Personal estate" includes chattels, real and other estate that passes to the
17 personal representative upon the owner dying intestate;
- 18 **(29)**~~[(28)]~~ "Regular election" means the election in even-numbered years at which
19 members of Congress are elected and the election in odd-numbered years at which
20 state officers are elected;
- 21 **(30)**~~[(29)]~~ "Shall" is mandatory;
- 22 **(31)**~~[(30)]~~ "State" when applied to a part of the United States, includes territories,
23 outlying possessions, and the District of Columbia; "any other state" includes any
24 state, territory, outlying possession, the District of Columbia, and any foreign
25 government or country;
- 26 **(32)**~~[(31)]~~ "State funds" or "public funds" means sums actually received in cash or
27 negotiable instruments from all sources unless otherwise described by any state

agency, state-owned corporation, university, department, cabinet, fiduciary for the benefit of any form of state organization, authority, board, bureau, interstate compact, commission, committee, conference, council, office, or any other form of organization whether or not the money has ever been paid into the Treasury and whether or not the money is still in the Treasury if the money is controlled by any form of state organization, except for those funds the management of which is to be reported to the Legislative Research Commission pursuant to KRS 42.600, 42.605, and 42.615;

(33)~~[(32)]~~ "Sworn" includes "affirmed" in all cases in which an affirmation may be substituted for an oath;

(34)~~[(33)]~~ "United States" includes territories, outlying possessions, and the District of Columbia;

(35)~~[(34)]~~ "Vacancy in office," or any equivalent phrase, means such as exists when there is an unexpired part of a term of office without a lawful incumbent therein, or when the person elected or appointed to an office fails to qualify according to law, or when there has been no election to fill the office at the time appointed by law; it applies whether the vacancy is occasioned by death, resignation, removal from the state, county or district, or otherwise;

(36)~~[(35)]~~ "Violate" includes failure to comply with;

(37)~~[(36)]~~ "Will" includes codicils; "last will" means last will and testament;

(38)~~[(37)]~~ "Year" means calendar year;

(39)~~[(38)]~~ "City" includes town;

(40)~~[(39)]~~ Appropriation-related terms are defined as follows:

- (a) "Appropriation" means an authorization by the General Assembly to expend, from public funds, a sum of money not in excess of the sum specified, for the purposes specified in the authorization and under the procedure prescribed in KRS Chapter 48;

1 (b) "Appropriation provision" means a section of any enactment by the General
 2 Assembly which is not provided for by KRS Chapter 48 and which authorizes
 3 the expenditure of public funds other than by a general appropriation bill;

4 (c) "General appropriation bill" means an enactment by the General Assembly
 5 that authorizes the expenditure of public funds in an executive, judicial, or
 6 legislative branch budget bill as provided for in KRS Chapter 48;

7 ~~(41)~~~~[(40)]~~ "Mediation" means a nonadversarial process in which a neutral third party
 8 encourages and helps disputing parties reach a mutually acceptable agreement.
 9 Recommendations by mediators are not binding on the parties unless the parties
 10 enter into a settlement agreement incorporating the recommendations; and

11 ~~(42)~~~~[(41)]~~ "Biennium" means the two (2) year period commencing on July 1 in each
 12 even-numbered year and ending on June 30 in the ensuing even-numbered year.

13 Section 238. KRS 362.521 is amended to read as follows:

14 (1) A limited partnership formed under any statute of this state prior to the adoption of
 15 KRS 362.403 to 362.525, until or unless it becomes a limited partnership under
 16 Sections 81 to 195 of this Act~~[KRS 362.403 to 362.525]~~, shall continue to be
 17 governed by the provisions of the statute under which it was formed.

18 (2) A limited partnership formed under any statute of this state prior to the adoption of
 19 Sections 81 to 195 of this Act~~[KRS 362.403 to 362.525]~~ may elect to become
 20 subject to Sections 81 to 195 of this Act~~[KRS 362.403 to 362.525]~~ upon the filing
 21 of an amended and restated certificate of limited partnership which complies with
 22 the provisions of Section 105 of this Act~~[KRS 362.415]~~.

23 (3) Upon the occurrence of any event which would require the filing of a certificate of
 24 amendment by a limited partnership under KRS 362.403 to 362.525 or under the
 25 statute under which the limited partnership was formed, the limited partnership
 26 shall file an amended and restated certificate of limited partnership which complies
 27 with the provisions of Section 105 of this Act~~[KRS 362.415]~~.

- 1 (4) A limited partnership formed under any statute of this state prior to the adoption of
 2 KRS 362.403 to 362.525 shall not be required to change its name to include the
 3 word "Limited" or its abbreviation "Ltd." *before the time it becomes subject to*
 4 *Sections 81 to 195 of this Act.*

5 Section 239. Effective January 1, 2008, the following KRS sections are repealed:

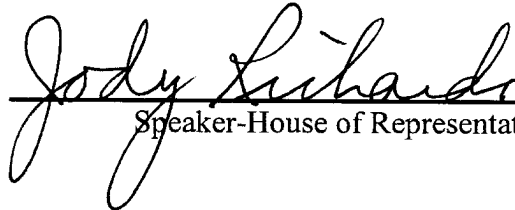
- 6 362.150 Short title.
 7 362.155 Definitions for KRS 362.150 to 362.360.
 8 362.160 Interpretation of knowledge and notice.
 9 362.165 Rules of construction.
 10 362.170 Rules for other cases.
 11 362.175 Partnership defined.
 12 362.180 Rules for determining the existence of a partnership.
 13 362.185 Partnership property.
 14 362.190 Partner agent of partnership as to partnership business.
 15 362.195 Conveyance of real property of the partnership.
 16 362.205 Partnership charged with knowledge of or notice to partner.
 17 362.210 Partnership bound by partner's wrongful act.
 18 362.215 Partnership bound by partner's breach of trust.
 19 362.220 Nature of partner's liability.
 20 362.225 Partner by estoppel.
 21 362.230 Liability of incoming partner.
 22 362.235 Rules determining rights and duties of partners.
 23 362.240 Partnership books.
 24 362.245 Duty of partners to render information.
 25 362.250 Partner accountable as a fiduciary.
 26 362.255 Right to an account.
 27 362.260 Continuation of partnership beyond fixed term.

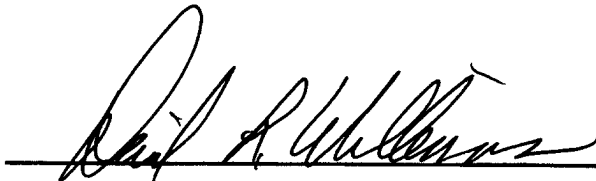
- 1 362.265 Extent of property rights of a partner.
- 2 362.270 Nature of a partner's right in specific partnership property.
- 3 362.275 Nature of partner's interest in the partnership.
- 4 362.280 Assignment of partner's interest.
- 5 362.285 Partner's interest subject to charging order.
- 6 362.290 Dissolution defined.
- 7 362.295 Partnership not terminated by dissolution.
- 8 362.300 Causes of dissolution.
- 9 362.305 Dissolution by decree of court.
- 10 362.310 General effect of dissolution on authority of partner.
- 11 362.315 Right of partner to contribution from co-partners after dissolution.
- 12 362.320 Power of partner to bind partnership to third persons after dissolution.
- 13 362.325 Effect of dissolution on partner's existing liability.
- 14 362.330 Right to wind up.
- 15 362.335 Rights of partners to application of partnership property.
- 16 362.340 Rights where partnership is dissolved for fraud or misrepresentation.
- 17 362.345 Rules for distribution.
- 18 362.350 Liability of persons continuing the business in certain cases.
- 19 362.355 Rights of retiring or estate of deceased partner when the business is continued.
- 20 362.360 Accrual of actions.
- 21 362.401 Definitions.
- 22 362.403 Name of limited partnership.
- 23 362.405 Reservation of name.
- 24 362.407 Recordkeeping office -- Agent for service of process -- Requirement for agent's
- 25 written acceptance of appointment.
- 26 362.409 Records to be kept.
- 27 362.411 Nature of business that may be carried on.


- 1 362.413 Business transactions of partners with partnership.
- 2 362.415 Formation -- Certificate of limited partnership.
- 3 362.417 Amendment to or restatement of certificate.
- 4 362.419 Cancellation of certificate.
- 5 362.421 Execution of certificates.
- 6 362.423 Execution of certificate by judicial act.
- 7 362.425 Filing in office of Secretary of State.
- 8 362.427 Liability for false statement in certificate.
- 9 362.429 Scope of notice.
- 10 362.431 Delivery of certificate to limited partners.
- 11 362.433 Admission of limited partners.
- 12 362.435 Voting rights of limited partners.
- 13 362.437 Liability of limited partners to third parties.
- 14 362.439 Liability of person erroneously believing to be a limited partner.
- 15 362.441 Limited partner's right to information.
- 16 362.443 Admission of additional general partners.
- 17 362.445 Events of withdrawal of general partner.
- 18 362.447 General power and liabilities of general partners.
- 19 362.449 Contributions by general partner.
- 20 362.451 Voting rights of general partners.
- 21 362.453 Form of contribution.
- 22 362.455 Liability for contribution.
- 23 362.457 Sharing of profits and losses.
- 24 362.459 Sharing of distributions.
- 25 362.461 Interim distributions.
- 26 362.463 Withdrawal of general partner.
- 27 362.465 Withdrawal of limited partner.

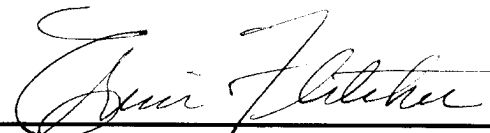
- 1 362.467 Distribution upon withdrawal.
- 2 362.469 Distribution in kind.
- 3 362.471 Right of distribution.
- 4 362.473 Limitation of distribution.
- 5 362.475 Liability upon return of contributions.
- 6 362.477 Nature of partnership interest.
- 7 362.479 Assignment of partnership interest.
- 8 362.481 Rights of judgment creditor.
- 9 362.483 Right of assignee to become limited partner.
- 10 362.485 Power of estate of deceased or incompetent partner.
- 11 362.487 Nonjudicial dissolution.
- 12 362.489 Judicial dissolution.
- 13 362.491 Winding up.
- 14 362.493 Distribution of assets.
- 15 362.495 Law governing foreign limited partnerships.
- 16 362.497 Registration of foreign limited partnership.
- 17 362.499 Filing of application by foreign limited partnership.
- 18 362.501 Name under which foreign limited partnership must register.
- 19 362.503 Changes and amendment.
- 20 362.505 Cancellation of registration of foreign limited partnership.
- 21 362.507 Registration required for access to courts -- Effects of failure to register.
- 22 362.509 Action by Attorney General to restrain foreign limited partnership from
- 23 transacting business.
- 24 362.511 Right of limited partner to bring derivative action.
- 25 362.513 Derivative action: proper plaintiff.
- 26 362.515 Derivative action: pleadings.
- 27 362.517 Derivative action: expenses.

- 1 362.519 Construction and application of act.
- 2 362.521 Effect on existing partnerships.
- 3 362.523 Applicability of Uniform Partnership Act.
- 4 362.525 Effect of repeal of prior statute.
- 5 362.527 Short title.
- 6 362.531 Merger of domestic limited partnerships with domestic or foreign limited
7 partnerships, limited liability companies, or corporations.
- 8 362.536 Domestic limited partnership's approval of plan of merger -- Amendment --
9 Abandonment.
- 10 362.541 Articles of merger.
- 11 362.546 Effect of merger.
- 12 362.555 Registered limited liability partnership -- Manner of registration.
- 13 362.565 Name of registered limited liability partnership.
- 14 362.575 Intent and policy of Commonwealth regarding registered limited liability
15 partnerships.
- 16 362.585 Registration of foreign limited liability partnership -- Effect of withdrawal --
17 Injunctive action by Attorney General.
- 18 362.595 Result of failure to comply with KRS 362.555 -- Service of process.
- 19 362.605 Suits by and against partnerships -- Effect of judgments.


Speaker-House of Representatives


President of the Senate

Attest: 
Chief Clerk of House of Representatives

Approved 
Governor

Date 